

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 4 June 2024

DOCKET NUMBER: AR20230012377

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show his service in Vietnam and his two already awarded Purple Hearts.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214
- National Personnel Records Center (NPRC) letter

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10 (Armed Forces), United States Code (USC), section 1552 (b) (Correction of Military Records: Claims Incident Thereto). However, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states, in effect, the Army awarded him two Purple Hearts, and he served in Vietnam; however, neither his awards nor his service are reflected on his DD Form 214.

a. In September 1969, the Army assigned the applicant to the Army Security Agency detachment in Chitose, Japan; while there, he serviced electronic warfare equipment in a variety of locations, to include Alaska, Turkey, Ethiopia, and Korea. They later sent him to Thailand, and from there he went on missions in Vietnam, Laos, and Thailand to service "MLQ Shacks" (apparently referring to remote sites that used specialized radio equipment to jam and/or monitor enemy transmissions). The missions lasted anywhere from a few hours to several days.

b. On two occasions at Kép Air Base (a North Vietnamese Air Base located northeast of the former North Vietnamese's capitol Hanoi), he was caught up in intense battles involving enemy rocket fire; the second time, he sustained shrapnel wounds

while in a radio tower, and they sent him to a hospital in Subic Bay, Philippines for treatment. After a debriefing, he returned to the USA, and he received 2 Purple Hearts.

c. The applicant is seeking now to establish his exposure to Agent Orange; he has prostate cancer, and this condition is covered under the PACT Act (a law that expands Department of Veterans Affairs (VA) health care and benefits for Veterans exposed to burn pits, Agent Orange, and other toxic substances). He adds that he would also like to recover his two Purple Hearts. In support of his request, he provides a copy of his DD Form 214 and an NPRC letter, which states the NPRC found no records showing the applicant received medical treatment for wounds received in combat.

3. A review of the applicant's service record reveals the following:

a. On 25 October 1968, the applicant enlisted into the Regular Army for 4 years. Upon completion of initial entry training and the award of military occupational specialty 98J (Electronic Warfare Operator/Analyst), orders assigned the applicant to the U.S. Army Security Agency, Chitose in Hokkaido, Japan; he arrived at this new duty station, on 11 August 1969.

b. Effective 26 February 1970, the applicant's leadership promoted him to specialist four (SP4)/E-4. On 26 June 1970, the applicant's field station commander (Colonel R___ A. M___) gave the applicant a letter of appreciation for the applicant's role in the unit's Armed Forces Day activities, on 16 May 1970. In or around August 1970, the field station awarded the applicant a Certificate of Appreciation for outstanding service as an operator/analyst, during the period August 1969 to August 1970.

c. On 11 October 1970, the applicant completed his tour in Japan, and orders reassigned him to a U.S. Army Security Agency unit at Fort Meade, MD; he arrived, on 2 November 1970.

d. On 1 March 1971, the applicant applied for a hardship discharge after his father suffered a heart attack. On 3 March 1971, U.S. Army Security Agency headquarters announced it had not favorably considered the applicant's request.

e. In January 1972, the applicant's commander advised him, via memorandum, of his intent to separate the applicant for unsuitability, under the provisions of Army Regulation (AR) 635-212 (Personnel Separations – Discharge – Unfitness and Unsuitability). On 16 February 1972, the commander forwarded his separation recommendation, and, on 22 February 1972, the separation authority approved the separation, directing the applicant receive a general discharge under honorable conditions.

f. On 24 February 1972, the applicant underwent a separation physical. On his Standard Form 93 (Report of Medical History), the applicant makes no mention of having sustained wounds in combat, and the only hospitalization he lists is one that occurred prior to entry on active duty. Additionally, the applicant's SF 88 (Report of Medical Examination) is void of any comments about combat-related wounds or injuries.

g. On 3 March 1972, the Army discharged the applicant under honorable conditions; his DD Form 214 shows he completed 3 years, 4 months, and 9 days of his 4-year enlistment contract. Item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) lists the National Defense Service Medal. Item 30 (Remarks) states, "VIETNAM – NO; INDOCHINA – NO; KOREA – NO."

4. The Vietnam Casualty Roster identifies, by name, Soldiers who were casualties during the Vietnam War; it is commonly used to verify the entitlement to the award of the Purple Heart. The applicant is not listed on this roster.

5. A review of the Awards and Decorations Computer-Assisted Retrieval System, an index of general orders issued during the Vietnam era between 1965 and 1973 and maintained by the U.S. Army Human Resources Command Military Awards Branch, failed to reveal any general orders awarding the applicant neither the Purple Heart nor any personal decorations.

6. AR 15-185 (ABCMR) states the ABCMR decides cases on the evidence of record; it is not an investigative body. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

7. The ABCMR does not grant requests for upgraded characters of service solely to make someone eligible for Veterans' benefits; however, in reaching its determination, the Board can consider the applicant's petition, his evidence and assertions, and his service record in accordance with the published equity and injustice guidance.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. Vietnam service: Deny. The applicant's service records show he was assigned to the U.S. Army Security Agency, Chitose in Hokkaido, Japan from 11 August 1969 to 11 October 1970. Following his Japan tour, he was reassigned to Fort Meade, MD; arriving

ADMINISTRATIVE NOTE(S):

1. AR 635-5 (Separation Documents), in effect at the time, required the DD Form 214 to list all authorized awards and decorations.
2. Department of the Army General Orders Number 32, dated 1973, awarded the Meritorious Unit Commendation (Navy) to the U.S. Army Security Agency, Program "C." for the period 1 May 1967 to 1 May 1970. The applicant was assigned to the U.S. Army Security Agency, Chitose, during the period 11 August 1969 to 11 October 1970.
3. Based on the foregoing, amend the applicant's DD Form 214, ending 3 March 1972, by adding the Meritorious Unit Commendation (Navy).

REFERENCES:

1. Title 10, USC, section 1552(b) provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. AR 600-8-22 (Military Awards), currently in effect, prescribes policies and procedures for military awards. Regarding the Purple Heart, the regulation states:
 - a. The Purple Heart is awarded in the name of the President of the United States to any member of an Armed Force of the United States under the jurisdiction of the Secretary of the Army who, after 5 April 1917, has been wounded, killed, or who has died or may hereafter die of wounds received, under any of the following circumstances:
 - In any action against an enemy of the United States
 - In any action with an opposing armed force of a foreign country in which the Armed Forces of the United States are or have been engaged
 - While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party
 - As the result of an act of any such enemy or opposing Armed Forces
 - As the result of an act of any hostile foreign force
 - After 28 March 1973, as a result of military operations while serving outside the territory of the United States as part of a peacekeeping force
 - b. To qualify for the Purple Heart, the wound must have been of such severity that it required treatment, not merely examination, by a medical officer.

- A medical professional is defined as a civilian physician or a physician extender; physician extenders include nurse practitioners, physician assistants, and other medical professionals qualified to provide independent treatment
- A wound is defined as an injury to any part of the body from an outside force or agent. A physical lesion is not required.
- Additionally, the wound's treatment must be documented in the Soldier's medical records

3. AR 635-5, in effect at the time, required entries in the remarks section of the DD Form 214 showing whether the Soldier had served in Vietnam, Indochina, and/or Korea, and reflecting the dates of that service.

4. AR 15-185, currently in effect, states:

a. The ABCMR decides cases on the evidence of record; it is not an investigative body. Additionally, the ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary).

b. The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

//NOTHING FOLLOWS//