

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 July 2024

DOCKET NUMBER: AR20230012392

APPLICANT REQUESTS:

- correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show the Bronze Star Medal
- award of the Purple Heart
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Bronze Star Medal Certificate, dated 11 July 1969
- Bronze Star Medal Citation Citation, for the period July 1968 to July 1969
- DD Form 214, for the period ending 16 July 1969

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); 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 he requests to add the BSM he was awarded in Vietnam to his DD Form 214. Also, due to an injury he sustained from incoming rounds by enemy fire, while serving in Quang Tri, Vietnam in September 1968, that resulted in shrapnel to penetrate his left leg, he wants his record to reflect he was entitled to and awarded the Purple Heart. After this attack, he was treated at a field dispensary where they removed the shrapnel from his leg.
3. The applicant provides the Bronze Star Medal Certificate he was awarded on 11 July 1969 for meritorious achievement in ground operations against hostile forces in the Republic of Vietnam from July 1968 to July 1969. He was subsequently presented with the citation.

4. The applicant's service record shows:

a. He was inducted into the Army of the United States on 26 September 1967.

b. The applicant's DA Form 20 (Enlisted Qualification Record) shows in:

- item 31 (Foreign Service): 24 July 1968 through 23 July 1969 U.S. Army Pacific (USARPAC)- Vietnam
- item 33 (Appointments and Reductions): consecutive promotions and does not reflect any reductions in rank
- item 38 (Record of Assignments): Alpha Company, 1st Battalion, 61st Infantry, 1st Brigade, 5th Division (Mechanized) USARPAC, from 26 July 1968 to 15 July 1969
- item 38 (continued): he received all excellent ratings in conduct and efficiency
- item 40 (Wounds): no entry for wounds
- item 41 (Awards and Decorations): National Defense Service Medal, Army Commendation Medal, Vietnam Campaign Medal with Device (1960), two overseas bars

c. He was honorably released from active duty on 16 July 1969. His DD Form 214 shows he completed 1 year, 9 months, and 21 days of active service. It also shows in:

- item 22c (Foreign and/or Sea Service): 11 months, 23 days
- item 24 (Awards): National Defense Service Medal, Vietnam Service Medal, Vietnam Campaign Medal, Army Commendation Medal, Marksman Badge M14 Rifle, two overseas bars

d. VA Form 07-3101 (Request for Information), dated 5 February 1970 reflects the Department of Veterans Affairs (VA) requested the applicant's medical records for verification of the following alleged diseases or injuries:

- Gun shot wound on leg, treated in September 1968 at the Field Infirmary Quang Tri, Vietnam
- Nervousness, treated in April 1969 at the Field Infirmary Quang Tri, Vietnam
- Ankle injury, treated in May 1969 at the Field Infirmary Quang Tri, Vietnam
- Jungle rot, treated in July 1969 at the Field Infirmary Quang Tri, Vietnam

e. The applicant is authorized additional awards and foreign service credit not currently listed on his DD Form 214. These amendments will be administratively corrected in the "Administrative Notes" section of this document without Board action.

f. The service record does not reflect, and the applicant does not provide any orders or certificates awarding him the Purple Heart.

5. The applicant's service record does not reflect any misconduct, lost time, derogatory information, or disciplinary actions for this period of service.

6. The applicant's name is not shown on the Department of the Army Office of the Adjutant General Vietnam Casualty Division Casualty Reference Name Listing for the period 1 January 1961 through 30 June 1973, a battle and non-battle listing of Soldiers who were killed, wounded, sick, captured, or missing during their service in Vietnam.

7. 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 maintained by the U.S. Army Human Resources Command Military Awards Branch, failed to reveal any orders for the Purple Heart or Bronze Star Medal pertaining to the applicant.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the provided Bronze Star Certificate and citation provided by the applicant, the Board concluded there was sufficient evidence to add the BSM to the applicant's DD Form 214. However, although there is VA document in the applicant's record showing he was injured by gun shot wound, there is insufficient evidence showing the incident was as a result of an armed enemy during combat operations. As a result, the Board concluded there was insufficient evidence to add the Purple Heart to the applicant's DD Form 214.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
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:	:	:	GRANT FULL RELIEF
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■	■	■	GRANT PARTIAL RELIEF
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:	:	:	GRANT FORMAL HEARING
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:	:	:	DENY APPLICATION
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BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by adding the the Bronze Star Medal to the applicant's DD Form 214.
2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to adding the Purple Heart.

1/7/2025

X

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

ADMINISTRATIVE NOTE(S):

A review of the applicant's records shows he is authorized foreign service and awards not listed on his DD Form 214. As a result, amend his DD Form 214 for the period ending 16 July 1969, by amending item 30 (Remarks) to read "Service in Vietnam from 26 July 1968 to 15 July 1969" and item 24 (Awards) to show he was authorized the following awards:

- Meritorious Unit Commendation
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Campaign Medal (VCM) with Device (1960)
- Vietnam Service Medal (VSM) with four bronze service stars

REFERENCES:

1. Title 10, U.S. Code, 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. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. The Purple Heart (PH) 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:

(1) In any action against an enemy of the United States.

(2) 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.

(3) 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.

(4) As the result of an act of any such enemy or opposing Armed Forces.

(5) As the result of an act of any hostile foreign force.

(6) After 7 December 1941, pursuant to Title 10, United States Code, section 1129, as a result of friendly fire provided the member was killed or wounded in action by friendly weapon fire while directly engaged in armed conflict, other than the result of an act of an enemy of the United States, unless (in the case of a wound) the wound is the result of the willful misconduct of the member.

(7) On or after 7 December 1941, to a member who is killed or dies while in captivity as a Prisoner of War under circumstances establishing eligibility for the Prisoner of War Medal, unless compelling evidence is presented that shows the member's death was not the result of enemy action.

b. To qualify for award of the Purple Heart the wound must have been of such severity that it required treatment, not merely examination, by a medical officer. 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.

(1) Treatment of the wound will be documented in the member's medical and/or health record.

(2) Award may be made for a wound treated by a medical professional other than a medical officer provided a medical officer includes a statement in the member's medical record that the severity of the wound was such that it would have required treatment by a medical officer if one had been available to provide treatment.

(3) 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 (to include Special Forces medics). Medics (such as combat medics – military occupational specialty 68W) are not physician extenders.

(4) A medical officer is defined as a physician with officer rank. The following are medical officers:

- An officer of the medical corps of the Army.
- An officer of the medical corps of the U.S. Navy.
- An officer in the U.S. Air Force designated as a medical officer in accordance with Title 10, United States Code, section 101.

c. Examples of enemy-related injuries which clearly justify award of the Purple Heart are as follows:

- Injury caused by enemy bullet, shrapnel, or other projectile created by enemy action
- Injury caused by enemy-placed trap or mine
- Injury caused by enemy-released chemical, biological, or nuclear agent
- Injury caused by vehicle or aircraft accident resulting from enemy fire
- Concussion injuries caused as a result of enemy-generated explosions
- Mild traumatic brain injury or concussion severe enough to cause either loss of consciousness or restriction from full duty due to persistent signs, symptoms, or clinical finding, or impaired brain function for a period greater than 48 hours from the time of the concussive incident

d. The Meritorious Unit Commendation (previously called the Meritorious Service Unit Plaque) is awarded to units for exceptionally meritorious conduct in the performance of outstanding services for at least 6 continuous months during the period

of military operations against an armed enemy occurring on or after 1 January 1944. Effective 1 March 1961, the MUC was authorized for units and/or detachments of the Armed Forces of the United States for exceptionally meritorious conduct in performance of outstanding services for at least 6 continuous months in support of military operations. Service(s), as used in this paragraph, is interpreted to relate to combat service support type activities and not to the type of activities performed by senior headquarters, combat, or combat support units.

e. The Bronze Star Medal (BSM) is awarded to any person who, while serving in any capacity in or with the Armed Forces of the United States, or a friendly foreign nation, after 6 December 1941, distinguished himself or herself by heroic or meritorious achievement or service, not involving participation in aerial flight, in connection with military operations against an armed enemy; or while engaged in military operations involving conflict with an opposing armed force in which the United States is not a belligerent party. 10 USC 1133 limits award of the BSM to Servicemembers receiving imminent danger pay, hostile fire pay, or hazardous duty pay and members of a friendly military force who are serving in a geographic area in which special pay is authorized under 37 USC 310 or 37 USC 351(a).

f. The Republic of Vietnam Campaign Medal (VCM) is awarded by the government of the Republic of Vietnam to Servicemembers of the U.S. Armed Forces and authorized by DODM 1348.33, Volume 3. To qualify for award personnel must have served in the Republic of Vietnam for 6 months or have served outside the geographical limits of the Republic of Vietnam and contributed direct combat support to the Republic of Vietnam and Armed Forces for 6 months. Individuals must meet the criteria established for the AFEM (Vietnam) or the VSM, during the period of service required to qualify for the Republic of Vietnam Campaign Medal. Eligibility for award under authority of this paragraph is limited to the period from 1 March 1961 to 28 March 1973, inclusive. The Republic of Vietnam Campaign Medal with device (1960) and the miniature medal are items of individual purchase.

g. The Vietnam Service Medal (VSM) was established by EO 11231, 8 July 1965, as amended by EO 13286, 2 February 2003. It is awarded to all Servicemembers of the Armed Forces of the United States serving in Vietnam and its contiguous waters or airspace there over, after 3 July 1965 through 28 March 1973. Servicemembers of the Armed Forces of the United States in Thailand, Laos, or Cambodia, or the airspace there over, during the same period and serving in direct support of operations in Vietnam are also eligible for this award. To qualify for award of the VSM an individual must be attached to or regularly serve for 1 or more days aboard a U.S. naval vessel directly supporting military operations, or Participate as a crewmember in one or more aerial flights into airspace above Vietnam and contiguous waters directly supporting military operations, or Serve on TDY for 30 consecutive days or 60 nonconsecutive

days in Vietnam or contiguous areas, except that time limit may be waived for personnel participating in actual combat operations.

h.

3. Army Regulation 672-15 (Decorations and Awards Service Medals), in effect at the time, states the Army Good Conduct Medal was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 27 August 1940; for first award only, 1 year served entirely during the period 7 December 1941 to 2 March 1946; and, for the first award only, upon termination of service on or after 27 June 1950 of less than 3 years but more than 1 year. The enlisted person must have had all "excellent" conduct and efficiency ratings. Ratings of "Unknown" for portions of the period under consideration were not disqualifying. There must have been no convictions by a court-martial. However, there was no right or entitlement to the medal until the immediate commander made a positive recommendation for its award and until the awarding authority announced the award in general orders.

4. Department of the Army Pamphlet 672-3 (Unit and Campaign Participation Credit Register) shows:

a. A bronze service star is worn on the appropriate service ribbon, to include the Vietnam Service Medal, for each credited campaign. During his service in Vietnam, the applicant participated in the following campaigns:

- Vietnam Counteroffensive, Phase V - 1 July 1968 to 1 November 1968
- Vietnam Counteroffensive, Phase VI - November 1968 to 22 February 1969
- TET 69 Counteroffensive - 23 February 1969 to 8 June 1969
- Vietnam Summer-Fall 1969 – 9 June 1969 to 31 October 1969

b. Table 5, 61st Infantry, 1st Battalion, reflects the unit was awarded the • Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period 26 August 1968 to 2 November 1968, pursuant to Department of the Army General Order 43, dated 1970.

c. Table 5, 61st Infantry, Company A, reflects the unit was awarded the Meritorious Unit Commendation for the period 20-30 November 1968, pursuant to Department of the Army General Order 32, dated 1973.

5. Army Regulation 635-5 (Separation Documents) in effect at the time, states that the DD Form 214 will reflect the conditions and circumstances that existed at the time the records were created. The purpose of the separation document is to provide the individual with documentary evidence of his or her military service at the time of release from active duty, retirement, or discharge. It is important that information entered on the form be complete and accurate and reflects the conditions as they existed at the time of separation.

6. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//