

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 July 2024

DOCKET NUMBER: AR20230012464

APPLICANT REQUESTS: award of the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Letters
- VA Form 21-6796b (Rating Decision), 17 July 1973
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge)

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 is requesting that his DD Form 214 for the service period ending 20 February 1973, be amended to reflect award of the Purple Heart. The applicant served as an infantryman from 1970 to 1973. While assigned to the 173rd Airborne Brigade, the applicant was on patrol in the village of Bong Son, when he was wounded from a booby trap and received several shrapnel wounds on his right leg and buttocks. During his time deployed and, in the military, he was exposed to loud noises (weapons fire, explosives, etc.), causing him to now wear a hearing aid.
3. The applicant provides VA Form 21-6796b dated 17 July 1973, showing the applicant was awarded a service-connected disability rating for multiple fragmentation wounds (MFW) sustained in December 1970.
4. A review of the applicant's records show:
 - a. He enlisted in the Regular Army on 8 January 1970. He held military occupational specialty 64C, Motor Transportation Operator.

b. He served in Vietnam from 14 November 1970 to 7 December 1970. He was assigned to Company D, 4th Battalion, 503rd Infantry.

c. His DA Form 20 (Enlisted Qualification Record) shows in Item 40 (Wounds), "MFW/Body," (Multiple Fragment Wound) dated 7 December 1970. He was transferred in a patient status to the U.S. Army Hospital in Okinawa on 17 December 1970 and then to the U.S. Army Medical Holding Company at Fort Riley, KS on 28 December 1970.

d. The service record is void of orders awarding the applicant the Purple Heart.

e. The applicant was honorably released from active duty on 20 February 1973. His DD Form 214 shows he completed 3 years of total active service with 44 days of lost time. He was assigned separation program number code 201 and the narrative reason for separation listed "Expiration Term of Service," with reentry code 3B. It also shows he was authorized the:

- National Defense Service Medal
- Parachute Badge
- Vietnam Service Medal
- Vietnam Campaign Medal
- Expert Marksmanship Qualification Badge with Rifle (M-14) Bar
- Expert Marksmanship Qualification Badge with Machine Gun (M-60) Bar
- Sharpshooter Marksmanship Qualification Badge with Pistol (45 caliber) Bar
- Expert Marksmanship Qualification Badge with Rifle (M-16) Bar

5. The applicant's name and service number are listed on the Vietnam casualty roster, a compilation of most of those who were wounded in Vietnam, which is used to verify eligibility for the Purple Heart, under Code 26 (Battle Wounded, Hostile wounded in action, hospitalized, and the date is 7 December 1970).

6. A review of the applicant's record confirms he is eligible for awards that are not recorded on his DD Form 214. The entries will be added to his DD Form 214 as administrative corrections and will not be considered by the Board.

7. By regulation (AR 600-8-22), the Purple Heart is awarded for a wound sustained in action against an enemy or as a result of hostile action. Substantiating evidence must be provided to verify the wound was the result of hostile action, the wound must have required treatment (not merely examination) by a medical officer, and the medical treatment must have been made a matter of official record.

8. Department of the Army General Orders Number 5, dated 5 February 1973, awarded the Republic of Vietnam Civil Actions Medal Unit Citation to 4th Battalion, 503rd Infantry Regiment, for service in Vietnam for the period of 15 April 1969 to 16 March 1971.
9. Department of the Army General Orders Number 8, dated 17 March 1974, awarded the Republic of Vietnam Gallantry Cross Unit Citation with Palm to Headquarters, United States Army Vietnam, for service in Vietnam for the period of 20 July 1965 to 28 March 1973.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant's DA Form 20 shows he sustained multiple fragment wounds to his body on 7 December 1970. Although the source of this injury is unclear, the regulation in effect at the time stated a brief description of wounds or injuries (including injury from gas) requiring medical treatment received through hostile or enemy action, including those requiring hospitalization would be entered in item 40 (wounds) of the DA Form 20. This regulation further stated that the date the wound or injury occurred would also be placed in item 40. Based on regulatory guidance, the Board determined award of the Purple Heart is appropriate.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

In addition to the correction addressed in Administrative Note(s) below, the Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- Awarding the applicant the Purple Heart for wounds received in action in Vietnam on 7 December 1970
- Adding the Purple Heart to his DD Form 214

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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 service records show he is authorized awards not annotated on his DD Form 214. As a result, amend his DD Form 214 for the service period ending 20 February 1973 to show:

- Republic of Vietnam Civil Actions Medal Unit Citation
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

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) provides that the Purple Heart is awarded for a wound sustained in action against an enemy or as a result of hostile action. Substantiating evidence must be provided to verify the wound was the result of hostile action, the wound must have required treatment (not merely examination) by a medical officer, and the medical treatment must have been made a matter of official record. Award of the Purple Heart may be made for wounds treated by a medical professional other than a medical officer provided a medical officer includes a statement in the service member's medical record that the extent of the wounds was such that they would have required treatment by a medical officer if one had been available to treat them.
3. Army Regulation 600-200 (Enlisted Personnel Management System), chapter 9, of the version in effect at the time, stated a brief description of wounds or injuries (including injury from gas) requiring medical treatment received through hostile or enemy action, including those requiring hospitalization would be entered in item 40 (wounds) of the DA Form 20. This regulation further stated that the date the wound or injury occurred would also be placed in item 40.
4. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) assist commanders and personnel officers in determining or establishing the eligibility of individual members for campaign participation credit, assault landing credit, and unit citation badges awarded during the Vietnam Conflict.
 - a. Department of the Army General Orders Number 5, dated 17 March 1974, awarded the Republic of Vietnam Civil Actions Medal Unit Citation to 4th Battalion, 503rd Infantry Regiment, for service in Vietnam for the period of 15 April 1969 to 16 March 1971.
 - b. Department of the Army General Orders Number 8, dated 17 March 1974, awarded the Republic of Vietnam Gallantry Cross Unit Citation with Palm to Headquarters, United States Army Vietnam, for service in Vietnam for the period of 20 July 1965 to 28 March 1973.

//NOTHING FOLLOWS//