

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 July 2024

DOCKET NUMBER: AR20230012722

APPLICANT REQUESTS: on behalf of her father a deceased former service member, (SM), award of the Purple Heart for injuries in Vietnam.

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

- DD Form 149 (Application for Correction of Military Record), 12 September 2023
- Certificate of Birth, Department of Health, Commonwealth of Pennsylvania, 1974

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 was wounded by a mortar in Vietnam while he was in a convoy.
3. She provided a copy of her birth certificate, showing she is the daughter of the SM.
4. The applicant's records contain sufficient evidence to support administrative corrections to his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) and will be listed in the administrative notes section.
5. As a separate issue, the Board may consider award of the Army Good Conduct Medal (1st Award) for the SM for the period 30 December 1966 to 16 December 1970.
6. A review of the SM's service records show:
  - a. On 14 November 1964, he enlisted in the Army National Guard. He served on active duty for training from 26 May 1965 to 7 November 1965 and completed training for award of military occupational specialty 64C, Heavy Vehicle Driver.

b. He enlisted in the Regular Army on 30 December 1965 for 4 years. On 29 December 1966, he was honorably discharged in order to reenlist. His DD Form 214 for this period shows he completed 1 year of active service. He was awarded the National Defense Service Medal.

c. On 30 December 1966, he reenlisted in the RA. His DA Form 20 (Enlisted Qualification Record) shows in:

(1) item 31 (Foreign Service): 3 January 1966 to 22 November 1967 – Germany and 2 January 1968 to 31 December 1968 - Vietnam

(2) item 38 (Record of Assignments) – he received "excellent" conduct and efficiency ratings during his active duty service; and he was assigned to 61st Transportation Company while he was deployed to Vietnam;

(3) item 40 (Wounds) – no entries;

(4) item 41 (Awards and Decorations): National Defense Service Medal, Vietnam Service Medal, and Republic of Vietnam Campaign Medal with Device (1960)

(6) item 44 (Lost Time Under section 972, Title 10, United States Code, and Subsequent to Normal Date Expiration of Term of Service) – no entries.

e. On 16 December 1970, he was honorably discharged. His DD Form 214 for this period shows in:

(1) item 22a(1) (Net Service This Period) – 3 years, 11 months, and 17 days;

(2) item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized):

- National Defense Service Medal
- Republic of Vietnam Campaign Medal with Device (1960)
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-14)
- Vietnam Service Medal with one silver service star

(3) item 26a (Non-Pay Periods Time Lost (Preceding Two Years)) – none; and

(4) item 30 (Remarks) – in part, no record of time lost or court-marital convictions.

f. His records are void of general orders awarding him the Purple Heart or the Army Good Conduct Medal (1st Award).

7. A check of the Vietnam Casualty Roster shows the applicant's name not listed on the Department of the Army Office of the Adjutant General 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.
8. 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 the Army Good Conduct Medal (First Award) pertaining to the applicant.
9. His records are void of any disciplinary actions or a commander's disqualification for award of the Army Good Conduct Medal for the period 30 December 1966 to 16 December 1970.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

- a. Purple Heart: Deny. To be awarded the Purple Heart, the regulatory guidance requires all elements of the award criteria to be met; there must be proof a wound was incurred as a result of enemy action, that the wound required treatment by medical personnel, and that the medical personnel made such treatment a matter of official record. The SM served in Vietnam from January to December 1968. Regretfully, the Board found no evidence he was injured as a result of hostile action, or he required medical treatment for any hostile injury. Therefore, the Board determined he does not meet the criteria for award of the Purple Heart.

- b. As a related award, although not specifically requested, the Board noted that the applicant served continuously on active duty from 30 December 1965 to 16 December 1970, completing a total of 4 years, 11 months, and 17 days of continuous Regular Army/active duty service. He received excellent conduct and efficiency ratings. His record does not reflect any lost time or any derogatory information that would have disqualified him from receiving his first award of the Army Good Conduct Medal, or a commander's disqualifying memorandum for this award. The Board determined he met the criteria to be awarded the Army Good Conduct Medal (1st Award).

2. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:            :            :            GRANT FULL RELIEF

█           █           █           GRANT PARTIAL RELIEF

:            :            :            GRANT FORMAL HEARING

:            :            :            DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. In addition to the correction addressed in Administrative Note(s) below, 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:

- awarding the applicant the Army Good Conduct Medal (1st Award) for service during the period 30 December 1965 through 29 December 1968
- adding award of the Army Good Conduct (1st Award) to his 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 awarding him the Purple Heart

█	█
█	█
█	█

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): The applicant's records contain sufficient evidence to support additional awards not shown on his DD Form 214 and should be administratively corrected to show in item 24, award of 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) prescribes Department of the Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. 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 by a medical officer, and the medical treatment must have been made a matter of official record. The Purple Heart differs from all other decorations in that an individual is not "recommended" for the decoration; rather, he or she is entitled to it upon meeting specific criteria. A Purple Heart is authorized for the first wound suffered under conditions indicated above; an oak leaf cluster is awarded to be worn on the medal or ribbon for each subsequent award. Not more than one award will be made for more than one wound or injury received at the same instant or from the same missile, force, explosion, or agent.

b. The Army Good Conduct Medal is awarded to on a selective basis to each Soldier who distinguishes himself or herself from among his or her fellow Soldiers by exemplary conduct, efficiency, and fidelity throughout a specified period of continuous enlisted active Federal military service. There is no right or entitlement to the medal until the immediate commander has approved the award and the award has been announced in permanent orders.

(1) The periods of service of qualifying service are: (1) each 3 years completed on or after 27 August 1940; (2) for the first award only, 1 year served entirely during the period 7 December 1941 to 2 March 1946; (3) 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; (4) for the first award only, upon termination of service on or after 27 June 1950 of less than 1 year when final separation was by reason of physical disability incurred in line of duty; or (5)

for the first award only, for those individuals who died before completing 1 year of active Federal military service or if the death occurred in the line of duty.

(2) Throughout a qualifying period of service, the enlisted Soldier's character must have been above reproach and must meet all of the following criteria for award of the Army Good Conduct Medal as indicated in the Soldier's record: willingly complied with the demands of the military environment, been loyal and obedient to his or her superiors, faithfully supported the goals of his or her organization and the Army, and conducted himself or herself in an exemplary manner as to distinguish him or her from fellow Soldiers.

3. U.S. Army Vietnam (USARV) Regulation 672-5-1 (Decorations and Awards), prescribed policies, responsibilities, and criteria for awards in order to insure prompt and proper recognition of individuals. The regulation stated:

a. The Purple Heart may be awarded to U.S. personnel who are wounded or killed in action as a direct result of enemy action.

b. A wound for which the award is made must have required treatment by a medical officer and records of medical treatment for wounds or injuries received must have been made a matter of official record.

c. Authority to award the Purple Heart was delegated to hospital commanders. Further, it directed that all personnel treated and released within 24 hours would be awarded the Purple Heart by the organization to which the individual was assigned. Personnel requiring hospitalization in excess of 24 hours or evacuation from Vietnam would be awarded the Purple Heart directly by the hospital commander rendering treatment.

4. Army Regulation 672-5-1 (Decorations and Awards), in effect at the time, stated the Army Good Conduct Medal (AGCM) was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 27 August 1940; for the 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. Service school efficiency ratings based upon academic proficiency of at least "good" rendered subsequent to 22 November 1955 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.

5. Department of the Army General Orders Number 8, 19 March 1974, confirmed award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation to Headquarters, U.S. Military Assistance Command, and its subordinate units during the period 8 February 1962 to 28 March 1973 and to Headquarters, U.S. Army Vietnam, and its subordinate units during the period 20 July 1965 to 28 March 1973.

6. Department of the Army General Orders Number 8, 19 March 1974, confirmed award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation to Headquarters, U.S. Military Assistance Command, and its subordinate units during the period 8 February 1962 to 28 March 1973 and to Headquarters, U.S. Army Vietnam, and its subordinate units during the period 20 July 1965 to 28 March 1973.

//NOTHING FOLLOWS//