

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 June 2024

DOCKET NUMBER: AR20230012810

APPLICANT REQUESTS:

- reconsideration of his previous request for 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)
- Self-Authored Statement
- Combat Infantryman Badge Certificate, 8 July 1969
- Air Medal Citation, for the period 6 June to 9 November 1969
- Two letters, dated 29 December 1969 and 15 January 1970
- Air Medal Certificate, 8 January 1970
- Army Commendation Citation, March 1969 to March 1970
- Army Commendation Certificate, 1 March 1970
- DD Form 1380 (U.S. Field Medical Card)
- Standard Form 600 (Health Record)

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20220010175 on 13 June 2023.

2. The applicant states:

a. His tour of duty started in April 1969. He was sent to walk point for C Company, 1st Battalion, 35th Infantry Regiment, commanded by Captain (CPT) [REDACTED]. His mission was to lead 10 Soldiers on a 10-kilometer clover leaf sweep looking for the North Vietnam Army (NVA) soldiers who were harassing their company at night with mortars and rocket propelled grenades (RPGs). He was given an alert when they came upon the NVA, he ordered his squad to a pre-planned defense mechanism, and he shot an NVA soldier without saying a word.

b. The next day his commander, CPT [REDACTED] ordered another sweep. After 3 hours of movement his dog found a trip wire hooked to a mortar round. They were able to move around it without any trouble. He went back to base and finished digging his sleeping spot, a trench. That night an NVA company fired 31 mortar rounds, 30 Soldiers were killed and about 40 wounded. The first of the 31 rounds landed 4 feet from his head. The blast broke his eardrums and burnt his hair and nose. There were trip flares going off all around and the NVA were advancing. He grabbed his weapon, the dog's leash, and headed to the perimeter fighting trench. Multiple flares went off and the NVA soldiers were approaching. He started screaming at the top of his lungs that they were coming. Two C Company soldiers were hit by an NVA RPG; the men were blown into the air. One of the soldiers lay a few feet in front of him; he pulled him back, but he was already dead. He took all of the soldier's armor and waited for another flare.

c. His commander, CPT [REDACTED] got air support which was used to push back the NVA. He was later recommended for an Army Commendation Medal and served on multiple missions. He received no medical attention other than a squad medic cleaning the dirt and blood out of his ears and nose. A later mission resulted in acute cellulitis of his head and neck. While in Vietnam he was moved to multiple hospitals in a drug coma. When he returned home [REDACTED], problems started, they have not stopped, and he is dealing with a rare, mutated infection. He had a magnetic resonance imaging and a computed tomography scan that show he has scrap metal in his left eye socket. He has not gotten treatment as he should from the Department of Veteran's Affairs.

3. The applicant provides.

a. A Combat Infantryman Badge Certificate, 8 July 1969, for his participation in armed ground conflict while a member of the famous fighting fourth Infantry Division in the Central Highlands of the Republic of Vietnam.

b. An Air Medal Citation and Certificate, for meritorious achievement while participating in sustained aerial flight in support of combat ground forces in the Republic of Vietnam, during the period 6 June 1969 to 9 November 1969.

c. A letter from the commanding officer 1LT [REDACTED] 29 December 1969, which shows, in part, concerning the applicant's tour in Vietnam, he has worked hard and pulled more than his share of missions. On several missions he has been recognized for his outstanding work as a Scout Dog Specialist. Most of his tour was spent walking point man in front of a patrol, which is the most dangerous job in a combat zone. On numerous occasions his ability to interpret his scout dog saved the lives of his fellow comrades in arm. [Applicant's] devotion to duty courage and physical stamina cannot be overlooked. His ability as a leader was exemplified in his performance to duty for his country in the finest manner possible.

d. A letter from the commanding officer 1LT [REDACTED] 15 January 1970, that shows, in part, his sincere appreciation for the fine job done by the applicant during his tour of duty with the 40th Infantry Platoon (Scout Dog) in Vietnam. More than once the applicant risked his life in the performance of his duty as a Scout Dog Specialist. Most of his tour was spent walking point man in front of a patrol, which is the most dangerous job in a combat zone.

e. An Army Commendation Citation and Certificate, for meritorious service in support of allied counter insurgency operations in the Republic of Vietnam, during the period March 1969 to March 1970 while serving as a dog handler.

f. A DD Form 1380 (U.S. Field Medical Card), 30 October 1969, which shows the applicant was admitted for cellulitis neck.

g. Standard Form 600 (Health Record), for the period September – October 1969, shows in part, [applicant] has cervical lymph nodes two degrees to sore throat.

5. A review of the applicant's service records show:

a. On 2 April 1968, the applicant was inducted into the Army of the United States.

b. His DA Form 20 (Enlisted Qualification Record) shows in:

(1) item 27 (Military Education): 11-week Scout Dog Handlers course and awarded MOS 11F (Infantry Operations and Intelligence Specialist).

(2) item 31 (Foreign Service): service in Vietnam from 14 March 1969 to 1 January 1970.

(3) item 38 (Record of Assignments): 40th Infantry Platoon, 4th ID from 21 May 1969 to 1 January 1970 in the duty of Scout Observer

(4) item 40 (Wounds): no entry.

c. On 2 January 1970, he was honorably released from active duty. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows he was awarded or authorized:

- National Defense Service Medal
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-14)
- Marksman Marksmanship Qualification Badge with Rifle Bar (M-16)
- Vietnam Service Medal
- Republic of Vietnam Campaign Medal with Device (1960)

d. His available health records do not show he was treated for wounds as the direct result of action by enemy forces.

e. His records are void of orders showing his entitlement to the Purple Heart.

f. 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 pertaining to the applicant.

g. The applicant's name is not shown 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.

6. On 13 June 2023, in ABCMR Docket Number AR20220010175, 13 June 2023, the Board found relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. 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 Board noted that none of the elements of the award criteria are met in this case.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted. The Board found the available evidence sufficient to consider this case fully and fairly without a personal appearance by the applicant.

2. The criteria for the Purple Heart require that a wound incurred as a result of hostile action must have required treatment by a medical officer, and the medical treatment must have been made a matter of official record. The Board found no evidence indicating the applicant incurred a wound as a result of hostile action that required treatment by a medical officer. Based on a preponderance of the evidence, the Board determined the applicant is not entitled to the Purple Heart.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

12/19/2024

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.

REFERENCES:

1. 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.

a. 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.

b. 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.

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 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.

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.

//NOTHING FOLLOWS//