

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 July 2024

DOCKET NUMBER: AR20230012916

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)

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 while serving in Southwest Asia during the Gulf War, he was exposed to sarin gas. The Department of Veterans Affairs (VA) has granted him a 100 percent disability rating for "Persian Gulf Syndrome;" in January 2020, and because of his VA disability, he suffered a heart attack and died five times. It is because of what he recently experienced that he is asking for the Purple Heart.
3. A review of the applicant's service record shows:
  - a. On 26 October 1988, the applicant enlisted into the Regular Army.
  - b. On 17 December 1990, while still in Germany, the applicant deployed to Southwest Asia; on 14 May 1991, he redeployed to Germany. The applicant continued his service, both in overseas and continental United States assignments, until 29 September 1995, the Army honorably discharged him. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 6 years, 11 months, and 4 days of active service. It also shows in item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized):
    - Army Commendation Medal (2nd Award)
    - Army Achievement Medal (2nd Award)
    - Army Good Conduct Medal (2nd Award)
    - National Defense Service Medal

- Southwest Asia Service Medal with three bronze service stars
- Noncommissioned Officer Professional Development Ribbon
- Army Service Ribbon
- Overseas Service Ribbon
- Kuwait Liberation Medal
- Air Assault Badge
- Driver and Mechanic Badge with Driver-W (Wheeled Vehicle) Component Bar
- Two marksmanship qualification badges

**BOARD DISCUSSION:**

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the regulatory guidance on awarding the Purple Heart requiring a specific date of a combat event causing injury and the available documentation in the record and provided by the applicant failing to pin-point a specific combat incident/date where the applicant was injured as a result of combat with an armed enemy, the Board concluded there was insufficient evidence of an error or injustice warranting the awarding 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:

1. 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.
2. Prior to closing the case, the Board noted the administrative notes below from the analyst of record, the Board recommended those changes be completed to more accurately reflect the military service of the applicant.

1/7/2025

X 

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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 service records indicates he is authorized additional awards not annotated on his DD Form 214. As a result, amend his DD Form 214 by:

- a. Deleting the Kuwait Liberation Medal and adding:

- Kuwait Liberation Medal – Saudi Arabia
- Kuwait Liberation Medal – Government of Kuwait

- b. Add the following remark in item 18: "SERVICE IN SOUTHWEST ASIA FROM 19901217 TO 19910514."

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, 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

c. When contemplating eligibility for the Purple Heart, the two critical factors commanders must consider is the degree to which the enemy or hostile force caused the wound and was the wound so severe that it required treatment by a medical officer. Some examples of enemy-related actions which justify eligibility for the Purple Heart

include injuries caused by chemical, biological, or nuclear agents released by the enemy.

3. AR 15-185 (ABCMR), 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//