

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 July 2024

DOCKET NUMBER: AR20230013112

APPLICANT REQUESTS: reversal of the U.S. Army Human Resources Command, Awards and Decorations Branch, denial of his award of the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- Two DD Forms 2808 (Report of Medical Examination), 29 October 2001
- Orders 288-225, Military Department of Arkansas, Office of the Adjutant General, Arkansas Army National Guard (ARARNG), 15 October 2003
- Permanent Orders 058-01, Headquarters (HQ), 7th Infantry Division (L), and Fort Carson, 27 February 2004
- SF 600 (Chronological Record of Medical Care), 20 April 2004
- Four DA Forms 2823 (Sworn Statement)
- DA Form 1155 (Witness Statement on Individual)
- DA Form 1156 (Casualty Feeder Report), 20 April 2004
- DD Form 1380 (Field Medical Card), 20 April 2004
- DA Form 2173 (Statement of Medical Examination and Duty Status), 20 April 2004
- Line of Duty Checklist, 20 April 2004
- DA Form 4980-14 (Army Commendation Medal Certificate), 14 January 2005
- Orders 072-0874, HQ, U.S. Army Field Artillery Center and Fort Sill, 13 March 2005
- DD Form 214 (Certificate of Release or Discharge from Active Duty), for the period ending 1 April 2005
- DA Form 4187 (Personnel Action), with statement, 16 September 2019
- Personnel Qualification Record, 18 December 2020
- Memorandum, U.S. Army Human Resources Command (HRC), 23 February 2021, subject: Award of the Purple Heart for (Applicant)
- Enlisted Record Brief, 6 September 2023

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 the Purple Heart was denied to him due to his medical documentation not being included in the initial packet.
3. The applicant provides:
  - a. A DD Form 2808, dated 29 October 2001, which shows, upon enlistment, he underwent a medical exam and was in good health.
  - b. Orders 288-225, dated 15 October 2003, showing the Adjutant General, ARARNG, ordered him to active duty for Operation Iraqi Freedom (OIF).
  - c. Permanent Orders 058-01, dated 27 February 2004, issued from HQ, 7th infantry Division, deploying him to Kuwait, effective 28 February 2004.
  - d. A SF 600, dated 20 April 2004, showing he presented to the aid station immediately upon returning from his mission after an improvised explosive device (IED) was triggered. He was examined by a physician. It notes he was the gunner in the second vehicle of a convoy and suffered shrapnel wounds to his chin and jaw with controlled bleeding and numerous abrasions to his left neck. His wound was cleaned and probed but no shrapnel was retained. Motrin was provided and he was returned to duty with instructions to return to the aid station if his condition worsened.
  - e. A sworn statement by Specialist (SPC) TDC\_\_\_\_, dated 20 April 2004, who was riding in a vehicle immediately behind the applicant and witnessed the IED detonation approximately 50 meters away. The injury was non-life threatening. The Soldiers secured the area and then returned to the Forward Operating Base (FOB) Head Hunter. The platoon medic and 1st Cavalry aid station medic treated him and returned him to duty.
  - f. A sworn statement by SPC SCM\_\_\_\_, dated 20 April 2004, an eyewitness to the IED, who noted the detonation occurred next to the applicant's vehicle and left a large purple knot on his chin. Once they cleared the area, they returned to the FOB.
  - g. A DA Form 1155, and a DA Form 1156, both dated 20 April 2004 and copied on the same page, noting the type of casualty as lightly wounded or injured in action and a brief description of the incident.

h. A DA Form 1380, dated 20 April 2004, showing his wound was wiped down with alcohol preparation and bandaged.

i. A line of duty checklist, dated 20 April 2004.

j. An Army Commendation Medal Certificate, dated 14 January 2005, showing he was awarded the Army Commendation Medal with "V" Device for exceptionally meritorious achievement while assigned to 153rd Infantry, 1st Cavalry Division.

k. A DA Form 2173, dated 19 January 2005, showing he was treated at 9th Cavalry Aid Station, Baghdad, he was admitted as an outpatient, his injury was in the line of duty, and he was wounded by an enemy IED while on combat patrol.

l. A DA Form 2808, dated 6 November 2006, showing high frequency hearing loss.

m. A sworn statement from Captain (CPT) JCD\_\_\_\_, dated 26 June 2012, detailing the IED incident of 20 April 2004, and noting he was the platoon leader of a combat patrol which left from FOB Head Hunter and was operating in the neighborhoods of Baghdad during the early part of OIF. The vehicles had add-on protection at best and lacked needed armor protection. He was leading the platoon on a combat patrol when a remote controlled IED (RCIED) detonated and left a sizable crater. The applicant, a gunner in the second vehicle which was showered with flying debris.

n. A sworn statement from his commander Major (MAJ) TJF\_\_\_\_, dated 19 March 2014, in which he described the IED detonation for his eyewitness account as he rode in the third vehicle immediately behind the applicant.

o. A personnel action, dated 16 September 2019, in which the applicant applied for the Purple Heart through his command, containing his attached undated statement revealing a detailed description of the 20 April 2004 mission in which the IED blast struck his vehicle.

p. A memorandum from the U.S. Army Human Resources Command, dated 23 February 2021, disapproving the applicant for award of the Purple Heart. It reads, in part: After a thorough review of the information provided and consultation with the U.S. Army Human Resources Command Office of the Surgeon General, the forwarded recommendation for award of the Purple Heart does not meet the statutory guidance outlined in Army Regulation 600-8-22 (Military Awards), paragraph 2-8c. "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."

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

- a. On 29 October 2001, he enlisted in the ARARNG.
- b. Orders issued by the Adjutant General, ARARNG, dated 15 October 2003, mobilized him to active duty for a period not to exceed 730 days.
- c. Orders issued by HQ, 7th Infantry Division (L), dated 27 February 2004, deployed him to Kuwait in support of Operation Iraqi Freedom 2, effective 28 February 2004.
- d. On 1 April 2005, he was honorably released from active duty and returned to control of the ARARNG. His DD Form 214 shows he completed 1 year, 5 months, and 20 days of active service, with 11 months and 24 days of service in Iraq from 15 March 2004 to 9 March 2005. His DD Form 214 is void of an entry for award of the Purple Heart.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

- a. The applicant contends he was involved in an IED detonation on 20 April 2004, that resulted in a combat injury which would qualify him for the Purple Heart. 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.
- b. In this case, the applicant has submitted evidence that indicates he was in fact involved in an IED detonation (his statement, other individual statements, and the DA Form 4187). However, the contended injury does not meet the award's criteria because an injury/wound must have been of such severity that it required treatment, not merely examination, by a medical officer.
  - The SF 50, dated 20 April 2004, shows he presented to the aid station upon returning from his mission after the IED was triggered. He was examined by a physician and noted for "shrapnel wounds to his chin and jaw with controlled bleeding, and numerous abrasions to his left neck." His wound was cleaned and probed but no shrapnel was retained. Motrin was provided.
  - A sworn statement by SPC TDC\_\_\_\_, dated 20 April 2004, who witnessed the IED detonation states the platoon medic and 1st Cavalry aid station medic treated him and returned him to duty.

- A sworn statement by SPC SCM\_\_\_\_, dated 20 April 2004, who witnessed the IED states the detonation occurred next the applicant's vehicle and left a large purple knot on his chin
- A DA Form 1380 U.S. Field Medical Card, dated 20 April 2004, showing his wound was wiped down with alcohol preparation and bandaged.

b. The Board determined by a preponderance of the evidence, to include the statements, and other supporting medical and personnel record documentation submitted by the applicant, does not support awarding the Purple Heart to the applicant.

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.

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. 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. It 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 by a medical officer, and the medical treatment must have been made a matter of official record.

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

(1) Injury caused by enemy bullet, shrapnel, or other projectile created by enemy action.

(2) Injury caused by enemy-placed trap or mine.

(3) Injury caused by enemy-released chemical, biological, or nuclear agent.

(4) Injury caused by vehicle or aircraft accident resulting from enemy fire.

(5) Concussion injuries caused as a result of enemy-generated explosions.

(6) 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.

b. Examples of injuries or wounds which clearly do not justify award of the Purple Heart are as follows:

(1) Frostbite (excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951).

(2) Trench foot or immersion foot.

- (3) Heat stroke.
  - (4) Food poisoning not caused by enemy agents.
  - (5) Chemical, biological, or nuclear agents not released by the enemy.
  - (6) Battle fatigue.
  - (7) Disease not directly caused by enemy agents.
  - (8) Accidents, to include explosive, aircraft, vehicular, and other accidental wounding not related to or caused by enemy action.
  - (9) Self-inflicted wounds, except when in the heat of battle and not involving gross negligence.
  - (10) Post traumatic stress disorders.
  - (11) Airborne (for example, parachute/jump) injuries not caused by enemy action.
  - (12) Hearing loss and tinnitus (for example: ringing in the ears).
  - (13) Mild traumatic brain injury or concussions that do not either result in loss of consciousness or restriction from full duty for a period greater than 48 hours due to persistent signs, symptoms, or physical finding of impaired brain function.
  - (14) Abrasions and lacerations (unless of a severity to be incapacitating).
  - (15) Bruises (unless caused by direct impact of the enemy weapon and severe enough to require treatment by a medical officer)
  - (16) Soft tissue injuries (for example, ligament, tendon or muscle strains, sprains, and so forth).
  - (17) First degree burns.
- c. Paragraph 2-8c provides that to qualify for award of the PH the wound must have been of such severity that it required treatment, not merely examination, by a medical officer.
- d. Paragraph 2-8f(6) provides for award of the PH in the case that concussions (and/or mild traumatic brain injury (mTBI)) caused as a result of enemy-generated

explosions that result in 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. Refer to paragraph 2–8I for additional information.

e. Paragraph 2-1 provides steps for awarding the PH. It reads, in part:

- recommender completes top section of DA Form 4187, places address of the approval authority in the TO box, places address of intermediate commander in the Thru box, and places parent unit address in the From box
- the company commander/officer in charge/supervisor verified all data on the DA Form 4187 and all enclosures
- approval authority makes final decision on command endorsement of award of the PH

//NOTHING FOLLOWS//