

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 June 2024

DOCKET NUMBER: AR20230013208

APPLICANT REQUESTS:

- correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show 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)
- Two DD Forms 214, for the period ending 19 October 1969 and 10 October 1972

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 in Vietnam on 12 March 1969 and received the Purple Heart, but it is not listed on either of his DD Forms 214.
3. The applicant's records indicate he was awarded or authorized additional awards that are not shown on his DD Form 214 and will be listed in the administrative notes.
4. A review of the applicant's service records show:
 - a. He enlisted in the Regular Army on 17 July 1968.
 - b. His DA Form 20 (Enlisted Qualification Record) shows:
 - item 31 (Foreign Service): service in Vietnam from 12 February 1969 to 10 February 1970
 - item 38 (Record of Assignments):

- Company A, 2nd Battalion, 7th Cavalry, 1st Cavalry Division (Airmobile (AM))
- Company B, 2nd Battalion, 7th Cavalry, 1st Cavalry Division (AM)
- Headquarters and Headquarters Company, 15th Supply and Service Battalion
- Supply Company, 15th Supply and Service Battalion, 1st Cavalry Division

- item 40 (Wounds): “MFW R – Arm, Chest, Hand” on 12 March 1969
- item 41 (Awards and Decorations):
 - National Defense Service Medal
 - Vietnam Service Medal
 - Republic of Vietnam Gallantry Cross with Palm Unit Citation
 - Combat Infantryman Badge
 - Republic of Vietnam Campaign Medal with Device (1960)
 - two overseas service bars
 - Bronze Star Medal
 - Air Medal
 - Marksmanship Qualification Badge with rifle bar (M-16)
 - Marksmanship Qualification Badge with rifle bar (M-14)
 - Marksmanship Qualification Badge with machine gun bar (M-60)
 - Marksmanship Qualification Badge with grenade bar (FC)

c. He was honorably discharged on 19 October 1969 for immediate reenlistment on 20 October 1969.

d. He was honorably released from active duty and transferred to the U.S. Army Reserve on 10 October 1972. His DD Form 214 shows he completed 4 years, 2 months, and 24 days of active service. It shows in:

- item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized):
 - National Defense Service Medal
 - Vietnam Service Medal
 - Republic of Vietnam Campaign Medal with device (1960)
 - Marksmanship Qualification Badge with rifle bar (M-16)
 - two overseas service bars

- item 30 (Remarks): Republic of Vietnam from 20 October 1969 to 10 February 1970

5. The applicant's name is shown on the Vietnam casualty roster as having sustained an injury as a result of hostile action on 12 March 1969. The casualty roster shows he was serving in duty MOS 11B and the injury was coded as not serious, hospitalized.
6. A review of the Awards and Decorations Computer-Assisted Retrieval System (ADCARS), an index of general orders issued during the Vietnam era, maintained by the U.S. Army Human Resources Command, failed to reveal any orders that show the applicant was awarded the Purple Heart.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. The Board determined 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 found documentary evidence that clearly or explicitly shows criteria for award of the Purple Heart, including the applicant's name annotated on the casualty roster, indication on his Enlisted Qualification Record of a wound sustained on 12 March 1969, while serving in Vietnam. Based on the evidence, the Board determined the applicant met the criteria for award of the Purple Heart. Prior to closing the Board, the Board also noted the additional awards authorized by the analyst of record in the administrative note below.
2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected by:

- awarding him the Purple Heart for wounds sustained on 12 May 1969
- adding to his DD Form 214 for the period ending 10 October 1972:
 - Purple Heart
 - Vietnam Service Medal with four bronze service stars
 - Republic of Vietnam Gallantry Cross with Palm Unit Citation
 - Meritorious Unit Commendation
 - Republic of Vietnam Civil Actions Honor Medal
 - Bronze Star Medal
 - Combat Infantryman Badge
 - Air Medal
 - Marksmanship Qualification Badge with rifle bar (M-14)
 - Marksmanship Badge with machine gun bar (M-60)
 - Marksmanship Qualification Badge with grenade bar (FC)

7/1/2024

X [REDACTED]

CHAIRPERSON

[REDACTED]

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 records show he is authorized additional awards not listed on his DD Form 214 for the period ending 10 October 1972. As a result, his DD Form 214 should be amended in item 24 (Awards) as follows:

- a. Delete the Vietnam Service Medal.
- b. Add:
 - Vietnam Service Medal with four bronze service stars
 - Republic of Vietnam Gallantry Cross with Palm Unit Citation
 - Meritorious Unit Commendation
 - Republic of Vietnam Civil Actions Honor Medal
 - Bronze Star Medal
 - Combat Infantryman Badge
 - Air Medal
 - Marksmanship Qualification Badge with rifle bar (M-14)
 - Marksmanship Badge with machine gun bar (M-60)
 - Marksmanship Qualification Badge with grenade bar (FC)

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.

a. The Purple Heart is awarded for a wound sustained while in action against an enemy or as a result of hostile action. Substantiating evidence must be provided to verify that the wound was the result of hostile action, the wound must have required treatment by medical personnel, and the medical treatment must have been made a matter of official record.

(1) A wound is defined as an injury to any part of the body from an outside force or agent sustained under one or more of the conditions listed above. A physical lesion is not required. However, the wound for which the award is made must have required treatment, not merely examination, by a medical officer. Additionally, treatment of the wound will be documented in the Service member's medical and/or health 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.

(2) When contemplating an award of the Purple Heart, the key issue that commanders must take into consideration is the degree to which the enemy caused the injury. The fact that the proposed recipient was participating in direct or indirect combat operations is a necessary prerequisite but is not the sole justification for award.

(3) Examples of enemy-related injuries that clearly justify award of the Purple Heart include concussion injuries caused as a result of enemy-generated explosions resulting in a mTBI 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.

(4) Examples of injuries or wounds that clearly do not justify award of the Purple Heart include post-traumatic stress disorders, hearing loss and tinnitus, mTBI 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.

b. The Vietnam Service Medal was awarded to all service members of the Armed Forces of the United States for qualifying service in Vietnam after 3 July 1965 through 28 March 1973. Qualifying service included attachment to or assignment for 1 or more days with an organization participating in or directly supporting military operations. One bronze service star is authorized with the Vietnam Service Medal for each campaign during which a member was assigned or attached to and present for duty with a unit during the period in which it participated in combat or was under orders in the combat zone and served at a normal post of duty. The applicant participated in four campaigns during his service in Vietnam.

3. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the unit awards received by units serving in Vietnam. This pamphlet shows the 15th Supply and Service Battalion was cited for the following unit awards:

a. Department of the Army General Order (DAGO) Number 28, dated 1969, the Meritorious Unit Commendation for the period 1 June 1968 to 30 November 1969.

b. DAGO Number 42, dated 1972, the Republic of Vietnam Civil Actions Honor Medal for the period 1 June 1968 to 30 November 1969.

4. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. 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 or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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.

//NOTHING FOLLOWS//