

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 May 2024

DOCKET NUMBER: AR20230013540

APPLICANT REQUESTS: brother of the deceased service member (SM), correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show his service in Vietnam and any awards authorized for his service, to include award of the Purple Heart (PH).

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, 27 February 1968
- Certificate of Death, 25 October 2022
- Standard Form (SF) 180 (Request Pertaining to Military Records), 4 January 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:

a. His brother was a Vietnam veteran who served in Vietnam between 1967 and 1968. He was airborne and served as a door gunner and crew chief on a Huey Cobra. He earned campaign ribbons and several medals, including the PH. They have all his medals and ribbons, as well as his verbal statements related to his time and service in Vietnam; however, after his death they discovered his DD Form 214, which they needed to have him interned in the veteran's cemetery, did not list any of his citations, medals, ribbons, or his service in Vietnam. The family believes this is a grievous error and they wish to have his record corrected.

b. His brother was cremated per his instructions and the family wanted to have a plaque placed on his niche listing his military honors, but the cemetery informed them

that they could not inscribe his plaque because his DD Form 214 does not reflect what he told them.

3. The applicant provides:

a. A certificate of death for the SM.

b. SF 180, dated 4 January 2023, which shows the applicant requested the SM's military records.

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

a. DD Form 398 (Statement of Personal History) and DA Form 2479 (Application for Separation – Hardship or Dependency), which shows the relationship between the SM and the applicant.

b. DD Form 47 (Record of Induction) shows he was inducted into the Army of the United States on 16 November 1966.

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

- Item 22 (Military Occupational Specialties) shows 63B, Wheel Vehicle Repairman
- Item 31 (Foreign Service) shows he served in U.S. Army Europe (USAREUR) (Germany) from 4 April 1967 to 25 February 1968
- Item 38 (Record of Assignments) does not list service in Vietnam or that he was assigned to a unit in Vietnam
- Item 39 (Campaigns): none
- Item 40 (Wounds): none
- Item 41 (Awards and Decorations) shows the National Defense Service Medal (NDSM); It does not list award of the PH or any other awards for service in Vietnam

d. The SM was honorably released and transferred to the U.S. Army Reserve (USAR) on 27 February 1968. He served 1 year, 5 months, and 12 days. His DD Form 214 shows in:

- Item 22c (Foreign and/or Sea Service): USAREUR, 10 months and 24 days
- Item 23a (Specialty Number and Title): 63B, Wheeled Vehicle Mechanic
- Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized): NDSM

e. Letter Orders Number 07-1028226, dated 13 July 1970, show the SM was relieved from the USAR Control Group Standby, effective 31 July 1970. It shows the type of discharge as honorable, by reason of personal hardship.

f. There are no documents or orders in the SM's record that indicate he was recommended for or awarded the PH.

g. The SM's name is not shown on Vietnam Casualty Roster for the period of 16 November 1966 to 27 February 1968.

h. 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 SM was awarded the PH.

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 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. Upon review of the servicemember's records, the Board determined he served in Germany from 4 April 1967 to 25 February 1968. However, there was no evidence to suggest that the applicant served in the Republic of Vietnam and denied so much of the request as to show service in the Republic of Vietnam and any associated awards.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the applicant's service record did not reflect he was awarded the Army Good Conduct Medal (1st award) and his record shows he received "excellent" conduct and efficiency ratings throughout his service for the period of 16 November 1966 to 27 February 1968. Based on this, the Board determined relief was warranted and granted relief for correction of the applicant's record to show award of the Army Good Conduct Medal.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. 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 Army records of the individual concerned be corrected by awarding him the Army Good Conduct Medal (1st Award) for exemplary service from 16 November 1966 to 27 February 1968 and adding the medal to his DD Form 214 for the period ending 27 February 1968.
2. The Board further determined that 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 granting the applicant foreign service credit for service in the Republic of Vietnam and any associated awards.

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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.

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 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.

//NOTHING FOLLOWS//