

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 July 2024

DOCKET NUMBER: AR20230014334

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

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

- DD Form 149 (Application for Correction of Military Record)
- U.S. Army Human Resources Command (HRC), Awards and Decorations Branch Letter, dated 23 May 2023
- Self Authored Statement, dated 10 September 2023
- One Photograph of Truck
- Four DA Forms 2823 (Sworn Statements)
- Letter of Support, dated 27 October 2021
- VA Form 21-10210 (Lay/Witness Statement)
- Orders 088-048, dated 29 March 2007 (Deployment Orders)
- Permanent Order 314-045, dated 10 November 2007 (Combat Action Badge)
- DA Form 638 (Recommendation for Award)
- Medical Records (19 pages)

FACTS:

1. The applicant states she disagrees with HRC's decision to her original request to be awarded the Purple Heart. She is submitting more thorough documentation of injury caused by enemy action and documentation that shows she was seen by medical personnel other than the unit medics resulting in restriction from active duty for a period of longer than 48 hours. Within her initial request for consideration for award of the Purple Heart, she submitted information that described the situation in detail of the attack by an Explosive Formed Projectile (EFP) which occurred on 26 December 2007. She thought her initial submission would be enough to prove that she was in a terrorist explosion; in which there were also other casualties.

a. She thought the documentation she submitted showing she was treated for memory loss and chronic migraines for over a decade after the head injury she sustained would be enough.

b. Their unit did not deploy with a medical officer or did not have much access to one unless they were at a larger base at that time would fulfill the treatment requirement of receiving treatment by a medical officer in the award criteria. She is submitting additional documentation.

2. The applicant provides:

a. A letter from HRC, dated 23 May 2023, which states:

(1) While the Awards and Decorations Branch would like to take favorable action, they are unable to authorize the requested award for issuance. The statutory and regulatory criteria governing the Purple Heart require it to be awarded for wounds received as a direct result of enemy action. The wound must have required treatment by a medical officer and been made a matter of official record. Military medical documentation from immediately after or close to the incident reflecting a diagnosis of and treatment for a qualifying wound must be provided.

(2) In this regard, we acknowledge receipt of the forwarded Standard Form 600 (Chronological Record of Medical Care) dated December 26, 2007, reflecting her medical examination following her involvement in the Explosive Formed Projectile (EFP) attack on the same date; she was evaluated for headache and symptoms of possible mild concussion and instructed to follow up with medical providers if symptoms worsened. In order to justify an award of the Purple Heart for concussion or mild Traumatic Brain Injury (mTBI) that did not result in loss of consciousness, Servicemembers must be restricted from fully duty by a medical officer for a period of greater than 48 hours based on persistent signs, symptoms, or findings of functional impairment resulting from the concussive event. Without significant documentation to the contrary, it appears this event does not meet the strict criteria for award of the Purple Heart.

b. A self-authored statement, dated 10 September 2023, which states while she was deployed to Iraq in 2007, as convoy security out of QWEST and her team was part of a scout element that drove before convoys looking for improvised explosive devices (IED). On 8 and 11 August she and her team were involved in IED explosions in which her and her team were dazed. Afterwards, she was seen by a medical officer, diagnosed with mTBI, given Tylenol and 3 days of light duty because of the head injury. She states by December her, and her team's mission changed to Police Transition Teams in Baghdad in which they would drive to their designated Iraqi Police stations. On 26 December 2007, while driving the lead vehicle in the convoy, the lead vehicle was hit with an EFP, and she helped pull her team leader from the burning vehicle. Later during the deployments, she started having migraines and noticed some memory loss. After returning to Fort Bragg, she was treated by the Neurology and TBI clinics. Unfortunately, she still suffers from migraines and memory issues which can interfere

with the fluency of her statements and hopes this statement has been coherent enough to narrate the major IED explosions that she was in and illustrates why she had to put in for the Purple Heart award.

c. Photograph of a truck that the applicant says was from 26 December 2007.

d. Three DA Forms 2823:

(1) From the Applicant, dated 26 December 2007, which states, in pertinent part: the lead vehicle was hit with a EFP and after the explosion she helped pulled the team leader from the burning vehicle and was examined by the medics and released to return to duty.

(2) Staff Sergeant (SSG) W.W., dated 26 December 2007, which states, in pertinent part, while on patrol and after clearing a checkpoint he overheard an explosion to the rear of the patrol. He immediately stopped and tried to establish communication with the rest of the patrol, and he received no response from the vehicle the applicant was in. He finally was able to see the vehicle and noticed it was on fire and saw the applicant trying to pull the team leader from the vehicle, he exited his vehicle to help. After removing the team leader from the vehicle, everyone was transported to base for medical care. The medics reported that the team leader from the impacted vehicle was an amputee from the left knee down, the assistant driver had minor cuts and flash burns to his face and neck and a perforated eardrum, and the applicant had no reported injuries at the time.

(3) Private First Class (PFC) B.C.R., dated 26 December 2007, which states, in pertinent part, that while heading down a route near the overpass, he heard an audible explosion and then he heard a huge explosion under the overpass. The convoy stopped to pull security and assist with casualties; he saw the team leader get pulled from the vehicle by the applicant and others and also saw the applicant retrieve the litter to assist with first aid of the team leader. After everyone was accounted for, the team headed back to base for medical care. He witnessed the team leader get medevac'd and everyone else conducted inspections and downloaded personal gear and sensitive items.

(4) Sergeant (SGT) L.E.V. dated 26 December 2007, which states, in pertinent part, while enroute to conduct operations, he heard an audible explosion to the rear of the convoy and then soon after there was another explosion at the overpass, and they were not able to et communication from the lead vehicle. He noticed SSG W.W.'s team conducted security. SSG W.W. dismounted his vehicle with a fire extinguisher because the truck was on fire. He noticed the applicant was clear of the truck and along with SSG W.W. was pulling the injured team leader from the truck. Once the team leader was clear of the truck first aid was started on him and the applicant retrieved the spine board for the injured team leader. The applicant was transported back to base in his

vehicle and SSG W.W. was the lead and drove directly to the TMC, once they arrived the medics took over care of the injured team leader. They then took accountability of all sensitive items and cleared all weapons.

e. On 27 October 2021, SFC (R) W.W., states he served with the applicant from 1 October 2006 to 30 September 2008 as her squad leader. He can confirm that the applicant was a member of the IED scout team and during this time her team had two IEDs detonate directly on their vehicle on 8 and 11 August, causing her to become unconscious. He states the applicant complained of headaches and blacking out but due to having only a medic with the unit she self-medicated with Motrin and Tylenol to accomplish the mission. On 26 December 2008, the applicant and her team were struck with a six array EFP while conducting combat operations. The EFP narrowly missed the applicant's abdomen by inches, maimed her team leader and flash burned her gunner on the face and neck. Again, due to the lack of medical facilities and doctors she was treated by the platoon medic and self-medicated for headaches and lapses in time in her memory.

f. VA Form 21-10210 (Lay/Witness Statement) M.M. stated that he was deployed to Iraq in 2007 with the applicant and they both encountered several IEDs while together. He can account for two instances where the applicant experienced a great deal of trauma, physically and mentally from her encounters.

(1) In August 2007, he could see the vehicle the applicant was driving encounter a 300-pound IED. He witnessed all the doors and hatches to her vehicle were blown open and the vehicle sustained a critical amount of damage and was undrivable. From the blast he noticed that the applicant and her team luckily had no visible damage however they had sustained concussions and were slow to understand what was transpiring due to the severity of the blast. He also noticed that from the blast the applicant had trouble remembering things over the next week due to the trauma caused by the blast. Her and her team had temporarily lost consciousness during the blast and over the course of the next few weeks she had difficulty remembering simple tasks and complex tasks.

(2) On 26 December 2007, the applicant was the driver of the lead vehicle on patrol that was hit with an EFP. The EFP detonation penetrated the armor on her passenger side severing her passenger's leg. One of the projectiles went through the side bottom of the vehicle directly towards the applicant's face. The radio mount and radios saved her life in this instance because it slightly altered the trajectory of one of the projectiles. The projectile then changed course and went above her head and penetrated the roof of the vehicle causing shrapnel wounds and heat burns to the applicant and her gunner. This incident caused the applicant a lot of head issues and memory issues and after this incident she struggled with headaches, constant memory loss and a great deal of mental anguish. She would forget things constantly and

mentally she was not the same person he deployed with. These two incidents are a recollection of his memory of what he could remember from their deployment.

g. Orders 088-048, dated 29 March 2007, ordered the applicant on deployment in support of Operation Iraqi Freedom.

h. Permanent Order (PO) 314-045, dated 10 November 2007, awarded the applicant the Combat Action Badge for actively engaging or being engaged by the enemy on 11 August 2007.

i. DA Form 638 (Recommendation for Award) with PO number 167-005 awarded the applicant the Army Commendation Medal with Valor for her actions for the period of 26 December 2007 to 27 December 2007.

j. The applicant's medical records (19 pages) include a Chronological Record of Medical Care from a medical treatment clinic in theater after injury from terrorists explosion, which show the applicant was given Acetaminophen 500 mg, 1 to 2 tablets every 6 hours. Additional medical records outline her follow up treatment and post deployment health assessment (PDHA) in which she rated her overall health during the past month as "Very Good."

3. A review of the applicant's service record shows:

a. She enlisted in the Regular Army on 14 December 2006.

b. She served in Iraq from 18 May 2007 to 2 August 2008 and from 3 April 2010 to 17 March 2011.

c. On 10 November 2007, PO 314-045 awarded the applicant the Combat Action Badge for actively engaging or being engaged by the enemy on 11 August 2007.

c. She was honorably released from active duty on 21 July 2012. Her DD Form 214 does not list the Purple Heart as an authorized award.

4. By regulation, the Purple Heart is awarded for a wound/injury 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 medical personnel
- the medical treatment must have been made a matter of official record

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. The applicant was involved in an EFP incident in August 2007, and after the explosion she helped pull a Soldier from the burning vehicle. She self-medicated with Motrin and Tylenol, was examined by the medics and released to return to duty.

a. 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. Additionally, when based on a TBI, the regulation stipulates the TBI, or concussion must have been severe enough to cause a loss of consciousness; or restriction from full duty due to persistent signs, symptoms, or clinical findings; or impaired brain functions for a period greater than 48 hours from the time of the concussive incident.

b. The Board noted that the applicant stated later during the deployment, she began having migraines and noticed some memory loss. After returning to Fort Bragg, she was treated for a while by the Neurology and TBI clinics at Womack Army Medical Center, including cognitive therapy. Additionally, she provides multiple statements that describe the incident itself, and in their description the authors reveal that the applicant was returned to duty. The Board agreed with HRC's determination that without significant documentation confirming the applicant was restricted from fully duty by a medical officer for a period of greater than 48 hours based on persistent signs, symptoms, or findings of functional impairment resulting from the concussive event, the criteria for award of the Purple Heart is not met.

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.

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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. AR 600-8-22 (Military Awards) provides Army policy, criteria, and administrative instructions concerning individual military decorations.

a. The Purple Heart is awarded to any member of an Armed Force of the United States who, while serving under competent authority in any capacity with one of the U.S. Armed Services after 5 April 1917, has been wounded or killed, or who has died or may hereafter die after, being wounded:

- injury caused by enemy bullet, shrapnel, or other projectile created by enemy action
- injury caused by enemy-placed trap or mine
- injury caused by enemy-released chemical, biological, or nuclear agent
- injury caused by vehicle or aircraft accident resulting from enemy fire
- concussion injuries caused as a result of enemy-generated explosions
- 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. Paragraph 2-8g. provides examples of enemy-related injuries which clearly justify award of the Purple Heart:

- injury caused by enemy bullet, shrapnel, or other projectile created by enemy action
- injury caused by enemy-placed trap or mine
- injury caused by enemy-released chemical, biological, or nuclear agent
- injury caused by vehicle or aircraft accident resulting from enemy fire
- concussion injuries caused as a result of enemy-generated explosions
- 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.

c. Paragraph 2-8h provides examples of injuries or wounds which clearly do not justify award of the Purple Heart which includes:

- battle fatigue
- post-traumatic stress disorder
- 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

d. Paragraph 2-8i states it is not intended that such a strict interpretation of the requirement for the wound or injury to be caused by direct result of hostile action be taken that it would preclude the award being made to deserving personnel.

//NOTHING FOLLOWS//