

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 August 2024

DOCKET NUMBER: AR20230014398

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show he was awarded multiple awards 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 for the period ending 24 February 1982
- U. S. Army Human Resources Command (HRC) Letter, dated 1 April 2013

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 supposed to have been awarded multiple PHs due to the injuries he incurred during his service. He has not really given it much thought until now, and is requesting the awards of the PHs, so they are passed on to his family after he passes away. He is providing the HRC letter to substantiate his claim.
3. The applicant provides a decision letter issued by HRC on 1 April 2013 that shows the applicant was awarded combat related special compensation (CRSC) benefits. He received a total disability rating of 50 percent (%). His application was approved with the summary of the final decisions under CRSC as follows:
 - Gunshot wound, abdomen: 10% disability, PH was awarded for this disability, effective 200704
 - Splenectomy, residual of shell fragment wound: 30% disability, PH was awarded for this disability, effective 200704
 - Shell fragment wound, head: 0% disability, PH was awarded for this disability, effective 200704

- Shell fragment wound, scars, back: 0% disability, PH was awarded for this disability, effective 200704
- Shell fragment wound, right arm: 0% disability, PH was awarded for this disability, effective 200704
- Status post operative laminectomy with residual low back pain: 20% disability, PH was awarded for this disability, effective 200704

4. The applicant's service record shows:

a. He was appointed as an U.S. Army Reserve (USAR) commissioned officer, on 20 June 1968 and entered active duty on the same date.

b. His DA Form 2-1 (Personnel Qualification Record) shows in:

- item 5 (Oversea Service): he served in Vietnam 12 December 1968 through 1 September 1969 and 5 November 1970 through 26 October 1971
- item 9 (Awards): reflects one PH
- item 35 (Record of Assignments): He served as a platoon leader, and was eventually a hospital patient from 22 December 1968 through 21 January 1970

c. General Orders Number 55, dated 10 December 1969, show he was awarded the PH for wounds received in connection with military operations against a hostile force on 4 August 1969.

d. His DD Form 214 shows he was honorably released from active duty on 27 September 1979 and was transferred to the USAR. He completed 11 years, 3 months, and 8 days of active service, and 9 months, and 21 days of prior active service. It also shows in:

- item 18f (Foreign and/or Sea Service): 4 years and 7 months
- item 26 (Awards): reflects one PH

e. SF Form 93 (Report of Medical History), dated 6 November 1979, reflects the following entries by the applicant, without any noted disabilities at the time:

- August 1969: gunshot wound-abdomen, splenectomy, colostomy
- March 1969: multiple fragment wounds, right arm, neck, head, back, legs, buttocks
- On or about September 1970: lacerated left leg, muscle hernia left leg
- 1968: hairline fractures of left foot in 1968, without any treatment or hospitalization required
- 1969/1970: patient at

- Republic of Vietnam
- Japan
- Fort Leonard Wood, MO
- Fort Benning, GA

f. His DA Form 2-1 (Personnel Qualification Record) shows in:

- item 5 (Oversea Service): service in Vietnam 12 December 1968 through 1 September 1969 and 5 November 1970 through 26 October 1971
- item 9 (Awards): reflects one PH
- item 35 (Record of Assignments): He served as a platoon leader, and was eventually a hospital patient from 22 December 1968 through 21 January 1970

g. His DD Form 214 shows he entered active duty on 25 February 1980 and was he was honorably released from active duty on 24 February 1982. He completed 2 years of active service, and 12 years, 1 month of prior active service. It also shows in:

- item 12f (Foreign Service): 4 years and 7 months
- item 13 (Awards): reflects one PH

5. The applicant is authorized foreign service and additional awards not currently listed on his DD Form 214. These awards will be administratively corrected in the "Administrative Notes" section of this document without Board action.

6. The applicant's name is shown twice on the Department of the Army Office of the Adjutant General Vietnam Casualty Division Casualty Reference Name Listing for the period 1 January 1961 through 30 June 1973, a battle and non-battle listing of Soldiers who were killed, wounded, sick, captured, or missing during their service in Vietnam. The Vietnam casualty roster provides the following:

- a. On 17 March 1969, the applicant's injury is listed:
 - Casualty status was: 23 (Hostile Wounded in Action: Not Serious Hospitalized)
 - Major attribute cause was: H (Not Booby Trap Connected)
 - Complementary cause was: C (Artillery/Mortar)
- b. On 8 August 1969, the applicant's injury is listed:
 - Casualty status was: 23 (Hostile Wounded in Action: Not Serious Hospitalized)
 - Major attribute cause was: H (Not Booby Trap Connected)

- Complementary cause was: B (Small Arms Fire)

7. A review of the Awards and Decorations Computer-Assisted Retrieval System, an index of general orders issued during the Vietnam era between 1965 and 1973 maintained by the U.S. Army Human Resources Command Military Awards Branch, failed to reveal any orders for the PH pertaining to the applicant.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the applicant's name appearing on the Vietnam Casualty Roster for two separate hostile fire events, the Board concluded there was sufficient evidence to award and add a second Purple Heart to the applicant's record for injuries incurred on 17 March 1969, while serving in Vietnam.

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 relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected by amending the applicant's DD Form 214 by awarding and adding a second Purple Heart for injuries incurred on 17 March 1969, while serving in Vietnam.

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

2/13/2025

X 

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 records shows he is authorized foreign service and awards not listed on his DD Form 214. As a result, amend his DD Form 214 for the period ending 27 September 1979, by amending:

- item 27 (Remarks) to read: "Service in Vietnam from 12 December 1968 to 1 September 1969 and 5 November 1970 to 26 October 1971"
- item 24 (Awards) by adding: Vietnam Service Medal (VSM) with one silver service star

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 (PH) 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:

(1) In any action against an enemy of the United States.

(2) 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.

(3) 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.

(4) As the result of an act of any such enemy or opposing Armed Forces.

(5) As the result of an act of any hostile foreign force.

(6) After 7 December 1941, pursuant to Title 10, United States Code, section 1129, as a result of friendly fire provided the member was killed or wounded in action by friendly weapon fire while directly engaged in armed conflict, other than the result of an act of an enemy of the United States, unless (in the case of a wound) the wound is the result of the willful misconduct of the member.

(7) On or after 7 December 1941, to a member who is killed or dies while in captivity as a Prisoner of War under circumstances establishing eligibility for the Prisoner of War Medal, unless compelling evidence is presented that shows the member's death was not the result of enemy action.

b. 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. 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.

(1) Treatment of the wound will be documented in the member's medical and/or health record.

(2) Award may be made for a wound treated by a medical professional other than a medical officer provided a medical officer includes a statement in the member's medical record that the severity of the wound was such that it would have required treatment by a medical officer if one had been available to provide treatment.

(3) 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 (to include Special Forces medics). Medics (such as combat medics – military occupational specialty 68W) are not physician extenders.

(4) A medical officer is defined as a physician with officer rank. The following are medical officers:

- An officer of the medical corps of the Army
- An officer of the medical corps of the U.S. Navy
- An officer in the U.S. Air Force designated as a medical officer in accordance with Title 10, United States Code, section 101

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

- 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

d. A Purple Heart is authorized for the first wound suffered under conditions indicated above; for each subsequent award an oak leaf cluster will be awarded to be worn on the medal or ribbon. No more than one award will be made for more than one

wound or injury received at the same instant or from the same missile, force, explosion, or agent.

3. Department of the Army Pamphlet 672-3 (Unit and Campaign Participation Credit Register) shows a bronze service star is worn on the appropriate service ribbon, to include the Vietnam Service Medal, for each credited campaign. During his service in Vietnam, the applicant participated in the following campaigns:

- Vietnam Counteroffensive, Phase VI, 2 November 1969 – 22 February 1969
- TET 69 Counteroffensive, 23 February 1969—8 June 1969
- Vietnam Summer-Fall 1969, 9 June 1969—31 October 1969
- Vietnam Counteroffensive, Phase VII, 1 July 1970—30 June 1971
- Consolidation I, 1 July 1971—30 November 1971

4. Army Regulation 635-5 (Personnel Separations Separation Documents) in effect at the time, states that the DD Form 214 will reflect the conditions and circumstances that existed at the time the records were created. The purpose of the separation document is to provide the individual with documentary evidence of his or her military service at the time of release from active duty, retirement, or discharge. It is important that information entered on the form be complete and accurate and reflects the conditions as they existed at the time of separation.

//NOTHING FOLLOWS//