

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 October 2024

DOCKET NUMBER: AR20230014537

APPLICANT REQUESTS:

- replacement service records
- award of the Purple Heart

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

- DD Form 149 (Application for Correction of Military Record)
- Standard Form 180 (Request Pertaining to Military Records)
- National Personnel Records Center (NPRC) letter
- State Archives letter
- Washington Army National Guard (WAARNG) Pamphlet
- Western Union Telegram
- Three Birth Certificates
- Notification of Birth Registration
- Death Certificate
- Driver License

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, the granddaughter of a deceased former service member (SM) states her grandfather's service records were destroyed in a fire and to make sure there is a permanent record of her grandfather's service, she would like those records replaced. Additionally, the family wishes to have the Purple Heart displayed on her grandfather's burial flag. It has been many years, but this would bring full closure for the family. She notes that the family has done its due diligence in trying to locate her grandfather's Purple Heart, and this included contacting the WAARNG for all available information. In support of her request, the applicant provides the following documents:

a. NPRC letter dated April 2013, which states they were unable to locate the deceased SM's service records and added that they may have been destroyed in a 12 July 1973 fire. The NPRC referred the applicant to the ABCMR to address the request for a Purple Heart.

b. WAARNG Pamphlet 870-1-5 (The Official History of the WAARNG – Volume 5 – WAARNG in World War I (WWI)). The document includes a historical summary and lists the units and assigned Soldiers that participated in WWI. The deceased SM is identified as a private in the Machine Gun Company, and the summary indicates the deceased SM's unit was part of the 41st Division.

c. Western Union Telegram, dated 8 October 1918 and sent by acting The Adjutant General P\_\_; it is addressed to Mrs. J.R. L\_\_ and states, "deeply regret to inform you that it is officially reported that Private [deceased former SM] was gassed slightly in action July fifth; department has no further information."

3. In 1973, a fire at NPRC in St. Louis, MO destroyed approximately 18 million service members' records; the fire affected Army personnel records dated between November 1912 and January 1960, and it is believed the deceased former SM's records were destroyed in that fire. The NPRC was able to provide a reconstructed record that consists of the deceased former SM's final payment upon separation and his honorable discharge certificate. These documents and those provided by the applicant show the following:

a. The SM enlisted in the WAARNG at in or around 1918 and was subsequently assigned to a machine gun battalion. According to the "Brief Histories of Divisions, U.S. Army, 1917-1918," prepared in 1921 by the Army's General Staff, elements of the 41st Division arrived in France between December 1917 and February 1918.

b. The Western Union Telegram, provided by the applicant, indicates the SM incurred injuries after being gassed by the enemy in July 1918. The "Brief Histories of Divisions" states the 41st Division returned to the U.S. in February 1919.

c. On 3 May 1919, the Army honorably discharged the SM.

#### 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 SM's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. The evidence of record shows the SM was inducted into the Army of the United States and subsequently deployed to France. His record contains a Western Union Telegram

indicating he was gassed in action on 5 July 1918. The Board determined the SM met the criteria for award of the Purple Heart.

2. The Board noted the applicant's request for replacement records; however, noted the 1973 fire at the National Personnel Records Center in St. Louis, MO which destroyed approximately 18 million service members' records; the fire affected Army personnel records dated between November 1912 and January 1960, and it is believed the SM's records were destroyed in that fire.

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 relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by awarding him the Purple Heart for injuries sustained in action on 5 July 1918.

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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 (AR) 600-8-22 (Military Awards), currently in effect, states the following with regard to the Purple Heart:

a. The Purple Heart was originally established by General George Washington at Newburgh, NY, on 7 August 1782 during the Revolutionary War. It was reestablished by the POTUS in accordance with War Department General Orders 3 on 22 February 1932.

b. The Purple Heart is awarded in the name of the POTUS to any member of an Armed Force of the United States under the jurisdiction of the SECARMY 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:

- In any action against an enemy of the United States
- 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
- 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
- As the result of an act of any such enemy or opposing armed force
- As the result of an act of any hostile foreign force

c. 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.

- Treatment of the wound will be documented in the member's medical or health record
- 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

d. Each approved award of the Purple Heart must exhibit all the following factors:

- Wound, injury, or death must have been the result of enemy or hostile act, international terrorist attack, or friendly fire
- The wound or injury must have required treatment by medical official
- The records of medical treatment must have been made a matter of official Army records

3. AR 15-185, currently in effect, states the ABCMR decides cases on the evidence of record; it is not an investigative body. The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

//NOTHING FOLLOWS//