

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 July 2024

DOCKET NUMBER: AR20230014562

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.

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 8 May 1969

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10 (Armed Forces), United States Code (USC), section 1552 (b) (Correction of Military Records: Claims Incident Thereto). 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 while in Vietnam, he sustained wounds in combat and was awarded the Purple Heart; however, the award is not listed on his DD Form 214 and he lost his Purple Heart Certificate.

3. The applicant's complete service records are unavailable for review. It is believed that his records were lost during the applicant's medical evacuation and subsequent treatment at a military hospital in Japan. His temporary records show:

- a. On 4 October 1967, the Army of the United States (AUS) inducted the applicant.
- b. He served in Vietnam from 6 April 1968 to 5 May 1969.
- c. The applicant's DA Form 20 (Enlisted Qualification Record) shows:
 - Item 31 (Foreign Service) – Service in Vietnam, from 6 April 1968 to on or about 8 May 1969
 - Item 40 (Wounds) – No entries
 - Item 41 (Awards and Decorations) – Purple Heart is listed

d. On 8 May 1969, he was honorably released from active duty, based on an early release policy, and transferred him to the U.S. Army Reserve for the remainder of his military service obligation. His DD Form 214 shows he completed 1 year, 7 months, and 4 days of active service. It also shows in:

(1) 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)
- Bronze Star Medal with "V" Device
- Army Commendation Medal
- Air Medal (1st Award)
- Army Good Conduct Medal (1st Award)
- Combat Infantryman Badge

(2) Item 30 (Remarks) does not show the dates of the applicant's Vietnam service.

4. The Vietnam Casualty Roster identifies, by name, Soldiers who were casualties during the Vietnam War; it is commonly used to verify the entitlement to the award of the Purple Heart. The applicant is listed on this roster as having incurred wounds requiring hospitalization as a result of small arms fire on 19 January 1969.

5. 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 and maintained by the U.S. Army Human Resources Command Military Awards Branch, failed to reveal any general orders awarding the applicant the Purple Heart.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence of record shows the applicant served in Vietnam from 6 April 1968 to 5 May 1969. There are no general orders in his service record, and he provides none to show he was awarded the Purple Heart. However, the applicant's name is listed on the Vietnam casualty roster as having incurred wounds requiring hospitalization as a result of small arms fire on 19 January 1969. The Vietnam Casualty Roster identifies, by name, Soldiers who were casualties during the Vietnam War; it is commonly used to verify the entitlement to the award of the Purple Heart. Based on his name being listed

on the Vietnam casualty roster, the Board determined award of the Purple Heart is appropriate 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:

In addition to the correction addressed in Administrative Note(s) below, the Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- Awarding the applicant, the Purple Heart for wounds received in action on 19 January 1969 in Vietnam
- Adding award of the Purple Heart to his DD Form 214

■

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):

1. AR 635-5 (Separation Documents), in effect at the time, stated the DD Form 214 was to list all decorations, service medals, campaign credits, and badges awarded or authorized. Additionally, the regulation required entries in the remarks section to show the dates the Soldier served in Vietnam.

2. AR 600-8-22, currently in effect, states the Vietnam Service Medal is awarded to all members of the Armed Forces of the United States based on their qualifying service in Vietnam after 3 July 1965 through 28 March 1973. A bronze service star will be awarded for wear on the Vietnam Service Medal for the Soldier's participation in each recognized campaign; Vietnam campaigns include the following:

- Counteroffensive, Phase IV (2 April 1968 to 30 June 1968)
- Counteroffensive, Phase V (1 July 1968 to 1 November 1968)
- Counteroffensive, Phase VI (2 November 1968 to 22 February 1969)
- Tet 69/Counteroffensive (23 Feb 1969 to 8 June 1969)

3. Department of the Army Pamphlet (DA PAM) 672-3 (Unit Citation and Campaign Participation Credit Register) shows Department of the Army General Order (DAGO) Number 8, dated 1974, awarded all units that served in Vietnam the Republic of Vietnam Gallantry Cross with Palm Unit Citation.

4. Based on the foregoing, amend the applicant's DD Form 214, ending 8 May 1969, as follows:

a. Item 24: delete Vietnam Service Medal and add the following:

- Vietnam Service Medal with four bronze service stars
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

b. Item 30: add, "Service in Vietnam 6 April 1968 to 8 May 1969."

REFERENCES:

1. Title 10, USC, 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, currently in effect, prescribes policies and procedures for military awards. Regarding the Purple Heart, the regulation states:

a. Paragraph 2-7 (Purple Hearts) states the Purple Heart 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:

- 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 Forces
- As the result of an act of any hostile foreign force
- After 28 March 1973, as a result of military operations while serving outside the territory of the United States as part of a peacekeeping force

b. To qualify for the Purple Heart, the wound must have been of such severity that it required treatment, not merely examination, by a medical officer.

- 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
- 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.
- Additionally, the wound's treatment must be documented in the Soldier's medical records

3. AR 15-185, currently in effect, states: The ABCMR decides cases on the evidence of record; it is not an investigative body. Additionally, the ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary). 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//