

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 July 2024

DOCKET NUMBER: AR20230014580

APPLICANT REQUESTS: reconsideration of his previous request to correct his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show the award of the Purple Heart (PH).

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

- DD Form 149 (Application for Correction of Military Record)
- Personal Statement
- DA Form 20 (Enlisted Qualification Record), 17 July 1968
- DD Form 214, 9 September 1968
- DD Form 1407 (Dependent Medical Care and DD Form 1173 (Uniformed Services Identification and Privilege Card) Statement), 6 September 1968
- Aerial herbicide spray missions in southern Vietnam, 1965 to 1971
- Medical Records, (37 pages)
- Statements in Support of the Applicant (10)

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20080010329 on 7 October 2008.

2. The applicant states, in effect:

a. A clear and unmistakable error was made in not awarding him the PH. He suffered a wound as the direct result of enemy action which required wound treatment. He suffered an injury on 15 December 1967, while serving in Vietnam. He was assigned to 1st Platoon, Company B, 2nd Battalion, 8th Infantry Regiment, 4th Infantry Division. They were patrolling in an area west of Kon Tum Province. They were searching for an enemy stronghold and walking through a jungle with 5-foot-high elephant grass. It was a jungle area that had been sprayed with Agent Orange but was still very difficult to see anyone or anything. Unbeknownst to them, the enemy had put rows of crisscrossed sharp stakes in the ground, that were coated with poisons, animal venom and/or human

feces, and were sticking out of the ground at an angle that was about 18 inches high. He was not able to see the stakes and walked into one of the punji stakes. The stake punctured his left leg just below his knee and he was unable to get immediate treatment at the patrolling site in the jungle.

b. When he got back to camp, about two weeks after the injury, the bleeding had stopped, but a large bump had formed in the puncture spot on his leg. He was sent to the 4th Medical Battalion then transferred to the 71st Evacuation Hospital, where he had surgery to remove the hard calcified abscess and had it drained and treated for infection. He was in the 71st Evacuation Hospital from 3 January 1968 to 15 January 1968. He was sent back to his unit, 1st Platoon, Company B, 2nd Battalion, 8th Infantry Regiment, 4th Infantry Division. He still has the scar and lump where the punji stake injured him.

3. The applicant provides the following:

a. DD Form 1407 dated 6 September 1968, which shows he was single and had no dependents with identification cards at the time he was separated from the service.

b. A document from the U.S. Department of the Army, which shows a map of the aerial herbicide spray missions in southern Vietnam from 1965 to 1971. It also shows Company B, 2nd Battalion, 8th Infantry's area of operations was location in the aerial herbicide spray missions.

c. 37 pages of medical records. A DA Form 8-275-3 (Clinical Record Cover Sheet) shows the applicant was admitted to the 71st Evacuation Hospital on 3 January 1968. He was diagnosed with an abscess, without lymphangitis, below knee, left leg. A biopsy of the left leg, below the knee for an abscess was performed and he was given local anesthesia. A DA Form 8-275-3 dated 10 July 1967, which shows he was diagnosed with flu-like symptoms.

d. 10 statements from former Soldiers that served with the applicant in Vietnam and one from his wife, which state the applicant was wounded and injured by a punji stake in November/December 1967, while on patrol with Company B, 2nd Battalion, 8th Infantry, 4th Infantry Division, in Vietnam. His wound was field dressed, and they continued their mission. The applicant sought further treatment and he was diagnosed with a serious infection.

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

a. He was inducted into the Army of the United States on 16 November 1966.

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

- Item 22 (Military Occupational Specialties) – 11B, Light Weapons Infantryman
- Item 31 (Foreign Service) – 28 May 1967 through 21 May 1968 - U.S. Army Pacific - Vietnam (USARPAC)
- Item 38 (Record of Assignments): he was assigned to Company B, 2nd Battalion (Mechanized), 8th Infantry, 4th Infantry Division while in Vietnam.
- Item 40 (Wounds): None
- Item 41 (Awards and Decorations): does not list the award of the PH.

c. General Orders Number 2190 dated 27 May 1968, which show the applicant was awarded the Army Commendation Medal for service in the Republic of Vietnam. The citation states he was assigned to Company B, 2nd Battalion, 8th Infantry, 4th Infantry Division and distinguished himself by exceptionally meritorious service in support of allied counterinsurgency operations in the Republic of Vietnam, from May 1967 to May 1968. He astutely surmounted extremely adverse conditions to obtain consistently superior results.

d. He was honorably released from active duty and transferred to the U.S. Army Reserve on 9 September 1968. His DD Form 214 shows he completed 1 year, 9 months, and 24 days of net active service for the covered period. It shows in:

- Item 22c (Foreign and/or Sea Service): Vietnam, 11 months and 24 days
- Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized): Does not list the PH.
 - National Defense Service Medal
 - Combat Infantryman Badge
 - Army Commendation Medal
 - Good Conduct Medal
 - Vietnam Service Medal with four bronze service stars
 - Republic of Vietnam Campaign Medal with Device (1960)
 - Presidential Unit Citation
 - Republic of Vietnam Gallantry Cross with Palm Unit Citation
 - Republic of Vietnam Civil Actions Honor Medal First Class Unit Citation
 - Sharpshooter Marksmanship Qualification Badge with rifle bar and machine gun
 - Marksman Marksmanship Qualification Badge with rifle bar
- Item 30 (Remarks): Service in Vietnam from 28 May 1967 to 19 May 1968

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

6. His name does not appear on the Vietnam casualty roster as sustaining an injury as a result of hostile action.

7. 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 applicant was awarded the PH.

8. The ABCMR considered the applicant's request for award of the PH in ABCMR Docket Number AR20080010329 on 7 October 2008. The Board determined that the evidence presented was insufficient to warrant award of the PH. As a result, the Board denied his request for award of the PH.

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 applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulations. One potential outcome was to deny relief based on insufficient evidence that the punji stick was enemy placed and by all accounts, evidence showed the puncture did not preclude the applicant from continuing the mission for 2 weeks nor did it rise to the level where he sought medical attention for two weeks. However, upon further review of the applicant's petition and available military records, the Board determined there is sufficient evidence to support the applicant's contentions for award of the purple heart. The Board found the applicant's five (5) witness statements accounting that the punji sticks were from the enemy and their claim to have witnessed the applicant get injured by a punji stick while on a combat patrol in dense elephant grass. The Board noted that any laceration received in that environment, left untreated or improperly treated would result in an eventual infection.

2. Although, the applicant was not listed on the Vietnam Casualty Roster as being wounded by hostile forces, nor an official record from medical personnel. The Board recognize, per the regulatory guidance on awarding the Purple Heart, the applicant must provide or have in his service records substantiating evidence to verify that he was injured, 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. However, the Board determined the applicant's witness statements were sufficient to support the applicant was wounded while on patrol by enemy forces. As such, the Board granted relief to award the Purple Heart.

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 a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending his DD Form 214 for the period ending 9 September 1968 to show award of the Purple Heart.

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. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. 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.

a. 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.

b. 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.

c. 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.

d. 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.

2. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//