

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 August 2024

DOCKET NUMBER: AR20230014732

APPLICANT REQUESTS:

- correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show:
 - his award of the Purple Heart
 - foreign service credit for his time in the Republic of Vietnam (RVN)
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- General Orders (GO) #3061 dated 31 October 1971
- Army Commendation Medal (ARCOM) Citation
- Special Orders #62, 9 March 1971
- DD Form 214

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 is requesting acknowledgment of his foreign service time in the Republic of Vietnam and his Purple Heart. The present DD Form 214 does not include his time in RVN nor his Purple Heart.
3. The applicant provides:
 - a. General Orders #3061 dated 31 October 1971, awarded the applicant the Soldier's Medal for heroism not involving actual conflict with an armed enemy in RVN. The orders also show his unit of assignment at the time as 218th Military Police

Company, 178th Military Police Detachment, 97th Military Police Battalion, 16th Military Police Group, 18th Military Police Brigade.

b. An ARCOM Citation shows the applicant distinguished himself by exceptionally meritorious service in RVN from March 1971 to March 1972.

c. Special Orders #62 dated 9 March 1971 directed the applicant's permanent change of station to the 218th Military Police Company.

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

a. He was inducted into the Army of the United States on 2 September 1970.

b. His DA Form 20 (Enlisted Qualification Record) shows he served in Vietnam from on or about 2 March 1971 until on or about 28 January 1972. It also shows:

- Item 40 (Wounds): no entry
- Item 41 (Awards and Decorations):
 - National Defense Service Medal
 - Vietnam Service Medal
 - Overseas Ribbon
 - Soldiers' Medal
 - Expert & Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16)
 - Marksman Marksmanship Qualification Badge with Pistol Bar (.45 Cal)

c. The available service record included his medical records (12 pages) which indicated he received treatment during his foreign service in RVN.

d. A Standard Form (SF) 88 (Report of Medical Examination) dated 29 January 1972 shows the applicant underwent a medical examination for the purpose of separation. He indicated in Item 73 (Notes) that he was in good condition and was marked qualified for service.

e. On 29 January 1972, he was honorably discharged from active duty and was transferred to the United States Army Reserve (USAR) to complete his remaining service obligation. His DD Form 214 shows he completed 1 year, 4 months, and 28 days of active service and 10 months and 27 days of foreign service. It also shows:

- Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized): National Defense Service Medal, Soldier's Medal, Vietnam Service Medal, Overseas Ribbon, Expert & Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16)
- Item 30 (Remarks): Vietnam (VN) Service 2 March 1971 – 28 January 1972

5. A review of the Awards and Decorations Computer Assisted Retrieval System maintained by the U.S. Army Human Resources Command, which is an index of general orders issued during the Vietnam era between 1965 and 1973, failed to reveal any orders for the Purple Heart pertaining to the applicant.

6. The applicant's name is listed on the Vietnam casualty roster, a compilation of most of those who were wounded in Vietnam, which is used to verify eligibility for the Purple Heart.

7. A review of the applicant's service record shows awards were omitted from his DD Form 214. The entries will be added to his DD Form 214 as administrative corrections and will not be considered by the Board.

8. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

9. By regulation (AR 600-8-22), 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.

10. Department of the Army General Orders (DAGO) Number 6, dated 1974, awarded the Republic of Vietnam Gallantry Cross Unit Citation with Palm to 18th Military Police Brigade and subordinate units for service in Vietnam for the period of 29 September 1966 to 28 March 1973.

11. DAGO Number 32, dated 1973, awarded the Meritorious Unit Commendation to Headquarters and Headquarters Detachment, 18th Military Police Brigade and assigned units for service in Vietnam for the period of 2 April 1971 to 19 March 1973.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, 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 review based on law, policy and regulation. Upon review of the applicants petition and available military records, the Board determined the applicant met the criteria for award of the Purple Heart. Specifically, the applicant's name is listed on the Vietnam Casualty Roster corroborating his entitlement to the Purple Heart. This entry in the index, paired with treatment while in Vietnam are sufficient evidence to satisfy the applicant met the criteria.
2. The evidence of record shows the applicant served in Vietnam from 2 March 1971 to 28 January 1972. However, the applicant's DD Form 214 does not reflect these inclusive dates. Therefore, the Board determined relief was appropriate for addition of his foreign service credit in the Republic of Vietnam.
3. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice 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:

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 March 1971
- adding to his DD Form 214, for the period ending 29 January 1972 in:
 - item 24: Purple Heart
 - item 30: Service in Vietnam 2 March 1971 to 28 January 1972

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 service records show he is authorized additional awards not annotated on his DD Form 214 for the service period ending 29 January 1972. As a result, amend his DD Form 214 to show:

- Republic of Vietnam Campaign Medal with Device (1960)
- Republic of Vietnam Gallantry Cross Unit Citation with Palm
- Meritorious Unit Commendation
- 2 bronze service stars with his already-awarded Vietnam Service Medal

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 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.

3. Army Regulation 600-8-22 (Military Awards) prescribes Department of the 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.

4. Department of the Army Pamphlet 672-3 (Unit Citations and Campaign Participation Credit Register) assist commanders and personnel officers in determining or establishing the eligibility of individual members for campaign participation credit, assault landing credit, and unit citation badges awarded during the Vietnam Conflict.

a. Department of the Army General Orders (DAGO) Number 6, dated 1974, awarded the Republic of Vietnam Gallantry Cross Unit Citation with Palm to 18th Military Police Brigade and subordinate units for service in Vietnam for the period of 29 September 1966 to 28 March 1973.

b. DAGO Number 32, dated 1973, awarded the Meritorious Unit Commendation to Headquarters and Headquarters Detachment, 18th Military Police Brigade and assigned units for service in Vietnam for the period of 2 April 1971 to 19 March 1973.

//NOTHING FOLLOWS//