

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 September 2024

DOCKET NUMBER: AR20230014917

APPLICANT REQUESTS: award of the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement
- Photo of Injuries

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 award of the Purple Heart. He should have applied sooner, but his family is now pushing him to ask for the decoration.

a. He served in Vietnam from 1966 to 1967 in the 70th Engineer Combat Battalion, 18th Brigade, 4th Infantry Division, and 1st Air Cavalry, 3rd or 4th Platoon. He was in Vietnam for approximately 6 months during which a move in location to Pleiku Vietnam had the unit attached the 101st Airborne. He cannot recall the exact date; however, during a convoy, he was manning the 50 caliber machine gun when the truck flipped over on its side. He was at the top of the cab and was thrown out of the truck, landing on his neck and shoulders. His sunglasses jammed into his face and he passed out. He was later informed the driver was trying to avoid hitting a mine.

b. The applicant recalls being placed in a helicopter and sent to the hospital in Pleiku. He believes it was the 71st Evacuation Hospital; however, he must have passed out during the journey because he awakened to a nurse and priest standing over him. The doctor made his way to the applicant to sew the wounds on his face. He was also informed he would be given morphine in his neck to enable them to pull four fingers out of his palm and back into their joints. The physician notified him that he could possibly have pain in his hand, shoulder, and neck for the rest of his life, and he can attest that

the guidance was accurate. He later received a visit from his Commander notifying him that he had the option to return home or complete his tour. He elected to complete his tour and be done with it. The applicant believes he should be awarded the Purple Heart and will wear it in honor of those lost.

3. The applicant provides a photo of himself with bandages across his head and his left hand.

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

a. He was inducted into the Army of the United States on 22 September 1966.

b. He served in Vietnam from 28 February 1967 to 27 February 1968. His DA Form 20 (Enlisted Qualification Record) shows in:

- item 38 (Record of Assignments) in U.S. Army Pacific (USARPAC):
 - 5 March 1967 – Company A, 70th Engineer Battalion (Combat)
 - 25 July 1967 – Company A, 70th Engineer Battalion (Combat)
 - 4 January 1968 – Company A, 70th Engineer Battalion (Combat)
 - 21 February 1968 – Enroute to Continental U.S. (CONUS)
- item 40 (Wounds): no entry
- item 41 (Awards and Decorations): National Defense Service Medal, Vietnam Service Medal, Republic of Vietnam Campaign Medal, two Overseas Service Bars

c. The available service record was void of documentation pertaining to medical treatment received in theater due to injury in the Republic of Vietnam.

d. He was honorably released from active duty on 20 September 1968. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows he completed 1 year, 11 months, and 29 days of active service. It also shows in:

- Block 22c (Foreign and/or Sea Service) – USARPAC, 1 year
- Block 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized):
 - National Defense Service Medal
 - two Overseas Service Bars
 - Vietnam Service Medal
 - Vietnam Campaign Medal
 - Expert Marksmanship Qualification Badge with Rifle Bar (M-14)

5. The applicant's name is not 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.

6. 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.

7. A review of the applicant's record confirms he is eligible for awards that are not recorded on his DD Form 214. These awards will be added to his DD Form 214 as administrative corrections and will not be considered by the Board.

8. By regulation, the Purple Heart is awarded for a wound/injury sustained in action against an enemy or as a result of hostile action. Substantiating evidence must be provided to:

- verify the wound was the result of hostile action
- the wound must have required treatment by medical personnel
- the medical treatment must have been made a matter of official record

9. Department of the Army General Orders (DAGO) Number 8, dated 1974, awarded the Republic of Vietnam Gallantry Cross Unit Citation with Palm to Headquarters, United States Army Vietnam, for service in Vietnam for the period of 20 July 1965 to 28 March 1973.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not 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. The Board determined to be awarded the Purple Heart, the regulatory guidance requires all elements of the award criteria to be met; there must be proof a wound was incurred as a result of enemy action, that the wound required treatment by medical personnel, and that the medical personnel made such treatment a matter of official record. The Board did not find documentary evidence that clearly or explicitly shows criteria for award of the Purple Heart. The Board noted the applicant's service in Vietnam from 28 February 1967 to 27 February 1968 and his contention of being flipped over in his truck to avoid hitting a mine; however, determined that did not meet the criteria for award of the Purple Heart.

2. Prior to closing the discussion, the Board reviewed and concurred with the administrative note and awards below and determined the applicant met the eligibility criteria for award of the Army Good Conduct Medal for the period 22 September 1966 to 20 September 1968 due to his excellent conduct and efficiency ratings annotated on his DA Form 20 and no record of disciplinary action.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
█	█	█	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The evidence presented does not demonstrate the existence of a probable error or injustice. As a result, the Board recommends denial of so much of the application that pertains to award of the Purple Heart.

2. The Board determined the evidence presented is sufficient to warrant partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214, for the period ending 20 September 1968 by:

- awarding him the Army Good Conduct Medal (First Award) for the qualifying period 22 September 1966 to 20 September 1968
- adding the Army Good Conduct Medal (First Award) to his DD Form 214

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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.

ADMINISTRATIVE NOTE(S):

A review of the applicant's service records show he is authorized an additional award and campaign credits not annotated on his DD Form 214 for the service period ending 20 September 1968. As a result, correct his DD Form 214 to show:

- Republic of Vietnam Gallantry Cross Unit Citation with Palm
- three bronze service stars with his previously 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 600-8-22 (Military Awards) provides Army policy, criteria, and administrative instructions concerning individual military decorations.

a. A bronze service star is authorized to denote participation in each designated campaign.

b. The Purple Heart is awarded in the name of the President of the United States to any member of an Armed Force or any civilian national of the United States who, while serving under competent authority in any capacity with one of the U.S. Armed Services after 5 April 1917, has been wounded or killed, or who has died or may hereafter die after, being wounded:

- 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 U.S. are or have been engaged
- While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the U.S. is not a belligerent party.
- As the result of an act of any such enemy of opposing Armed Forces
- As the result of an act of any hostile foreign force

3. The Purple Heart was established by General George Washington at Newburgh, NY on 7 August 1782 during the Revolutionary War. It was reestablished by the President of the United States per War Department General Orders Number 3 in 1932. It was awarded in the name of the President of the United States to any member of the Armed Forces or any civilian national of the United States who, while serving under competent authority in any capacity with one of the U.S. Armed Services after 5 April 1917, died or sustained wounds as a result of hostile action. Effective 19 May 1998, award of the Purple Heart is limited to members of the Armed Forces of the United States.

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. Department of the Army General Orders (DAGO) Number 8, dated 1974, awarded the Republic of Vietnam

Gallantry Cross Unit Citation with Palm to Headquarters, United States Army Vietnam, for service in Vietnam for the period of 20 July 1965 to 28 March 1973.

//NOTHING FOLLOWS//