

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 April 2025

DOCKET NUMBER: AR20240000182

APPLICANT REQUESTS: award of the Purple Heart based on traumatic brain injury (TBI)/concussion.

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

- DD Form 149 (Application for Correction of Military Record)
- Two third-party statement
- Army Commendation Medal citation
- Letter from the Vietnam Veterans of America National President

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 sustained a qualifying injury for award of the Purple Heart.
3. The applicant provided two third-party statements stating, in part:

During the Vietnam war [the applicant] shared that he has been greatly affected by the mine explosions he experienced. [The applicant] related that on his first day on a grader in January of 1970 a mine was set off near a village that he was approaching and chunks of dirt hit his right shoulder and then he jumped off the grader. He reported that he had burning pain in his right shoulder for weeks.

On 4 April 1970, [the applicant] stated that he was on a bulldozer in [Vietnam] doing land clearing of brush and grass. When he was going left around 3 trees that were too big to knock down he heard an explosion. This explosion hit the left side of the dozer causing damage to the blade. As he stopped the dozer he hit another mine. The explosion took off the track pads and [the applicant] could see the explosion coming at him - blackness that was growing larger and larger. [The applicant] said he closed his eyes figuring he was going to die. The next thing he knew he was

checking himself for blood and then started clearing the dirt off himself. [The applicant] reported that the armored APC [armored personnel carrier] guy pulled the pin to unhook the chains, so he could drive the dozer back to camp where he saw a field medic who had him turn around in a circle.

[The applicant] reported that he started crying as he was turning around. The medic wanted to air vac [air medical evacuation] him out, but [the applicant] declined out of fear of being shot down, so he rode a truck back to the basecamp. The basecamp medic put cotton in [the applicant's] ears for two weeks and told him to rest during that time. [The applicant] was concerned that his eardrums were badly damaged. After that time he was sent to Cambodia for two months. After the double explosion [the applicant] did not think about contacting his parents. His family contacted the Red Cross to find him as they had not heard from him in quite some time. The Red Cross told [the applicant] to write to his parents but he just kept working as he was not able to write or communicate in the condition he was in.

[The applicant] feels that the residual effects of the brain blast injuries from the explosions in Vietnam have caused him difficulties in the area of mental/cognitive function, emotional and behavioral function as well as physical function. He was made aware that TBIs are a "signature injury" with Iraq and Afghanistan veterans. *[The complete third-party statements were provided to the Board for their review and consideration].*

4. The applicant's records show:

- He was inducted into the Army on 12 August 1969
- He served in Vietnam from 6 January 1970 to 14 March 1971
- His DA Form 20 (Enlisted Qualification Record) does not contain an entry in item 40 (Wounds) indicating he sustained any wounds
- His available records do not contain evidence indicating he was treated for a combat-related injury
- He was honorably released from active duty on 16 March 1971. His DD Form 214 shows he was awarded or authorized:
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5. The Adjutant General's Office Vietnam casualty roster does not show the applicant's name.

6. The applicant provided:

- a. An Army Commendation Medal citation showing he was awarded this award for meritorious achievement in connection with military operations against a hostile force in

Vietnam during the period 1 May 30 June 1970. The citation does not indicate he sustained an injury as a result of hostile enemy action.

b. A letter from the Vietnam Veterans of America National President informing him of the organization's mission.

7. A review of the applicant's record confirms he is eligible for an award and campaign credits that are not recorded on 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.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial 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 regulation. 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.

2. In events involving TBI and other similar injuries, the applicant's record must show that the brain injury 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. Upon review of the applicant's petition and available military record, the Board found insufficient medical evidence to meet the regulatory standard for the Purple Heart and thus recommended denying the request.

3. The Board further determined the evidence presented is sufficient to warrant a correction the record not otherwise requested. The Board noted that the applicant served for over two years and received an honorable discharge. As his record is void of derogatory information, the Board agreed that he met the criteria for award of the Army Good Conduct Medal.

4. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction be completed to more accurately depict the military service of the applicant.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. In addition to the administrative notes annotated by the Analyst of Record (below the signature), the Board determined the evidence presented sufficient to warrant a partial 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 service period ending 16 March 1971 to show award of the Army Good Conduct Medal.
2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to award of the Purple Heart.

X //SIGNED//

CHAIRPERSON

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 campaign credit not annotated on his DD Form 214. As a result, amend his DD Form 214 to show:

- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Civil Action Honor Medal, First Class
- 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) states:

a. The Purple Heart is awarded for wounds 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.

b. When contemplating eligibility for the Purple Heart, the two critical factors commanders must consider are the degree to which the enemy or hostile force caused the wound and whether the wound was so severe that it required treatment by a medical officer. Some examples of enemy-related actions that justify eligibility for the Purple Heart include concussions or mild traumatic brain injury (mTBI) caused as a result of enemy-generated explosions that result in 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.

c. When considering award of the Purple Heart for a mTBI or concussion that did not result in the loss of consciousness, the chain of command will ensure the diagnosed mTBI resulted in a disposition of "not fit for full duty" by a medical officer for a period greater than 48 hours based on persistent signs, symptoms, or findings of functional impairment resulting from the concussive event.

//NOTHING FOLLOWS//