

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 August 2024

DOCKET NUMBER: AR20240000216

APPLICANT REQUESTS: award of the Purple Heart (PH).

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge)
- Honorable Discharge certificate
- Headquarters, 1st Signal Brigade General Orders Number 132

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, in effect, he should have been awarded a Purple Heart. He was injured in Vietnam and was awarded the Silver Star.
3. The applicant provides:
 - a. DD Form 214, which reflects he was honorably transferred to the U.S. Army Reserve on 20 August 1969, under the provisions of Army Regulation 635-200, Section VII, chapter 5, separation program number (SPN) 411, overseas returnee. He served 1 year, 9 months, and 25 days of net service this period. Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) reflect National Defense Service Medal, Vietnam Campaign Medal, and Vietnam Service Medal.
 - b. Honorable Discharge Certificate certifies the applicant, U.S. Army Reserve, was honorably discharged from the U.S. Army on 1 October 1973.

c. Headquarters, 1st Signal Brigade (USASTRATCOM) General Orders Number 132, dated 14 January 1970, reflects the applicant was awarded the Silver Star for gallantry in action while engaged in military operations involving conflict with an armed hostile force in the Republic of Vietnam. He distinguished himself on 23 February 1969, while serving as site repairman and operation with MACV Team 67 and the 5th Special Forces at Song Be, Republic of Vietnam.

4. The applicant's complete military records are not available to the Board for review. A complete and thorough search for his military records was conducted; however, they could not be located. This case is being considered based on the documents provided by the applicant.

5. By regulation (AR 600-8-22), the criteria for an award of the Purple Heart requires the submission of substantiating evidence to verify:

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

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 regulation. One potential outcome was to deny relief, finding the applicant did not meet the criteria for award of the purple heart due the applicant being injured while putting up a communication tower. However, upon review of the applicant's petition and available military records, the Board determined there is sufficient evidence to show the applicant was injured during an exchange of small arms fire. The applicant was awarded the Silver Star for his gallantry, whereas the applicant repeatedly exposed himself to intense hostile, rifle, mortar and machine gun fire and was most instrumental in re-establishing and providing reliable communications through the NVA and Viet Cong six-hour attack. The Board noted, the applicant command cited he was seen by medical personnel and with total disregard went back into the fight. Based on this, the Board granted relief to award the Purple Heart.

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

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 administrative notes annotated by the Analyst of Record (below the signature), 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 20 August 1969 to add in item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) : Purple Heart.

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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 record shows his DD Form 214 should be amended as follows:

- Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized): (add) Silver Star

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 (AR) 600-8-22 (Military Awards), prescribes policies and procedures for military awards and decorations, to include the Purple Heart.

a. 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 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. When contemplating an award of this decoration, 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.

b. Examples of enemy-related injuries which clearly justify award of the Purple Heart are as follows:

- Injury caused by enemy bullet, shrapnel, or other projectile created by enemy action
- Injury caused by enemy-placed trap or mine
- Injury caused by enemy-released chemical, biological, or nuclear agent
- Injury caused by vehicle or aircraft accident resulting from enemy fire
- Concussion injuries caused as a result of enemy-generated explosions
- Mild traumatic 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

//NOTHING FOLLOWS//