

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 August 2024

DOCKET NUMBER: AR20240000226

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)
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge)

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 earned the Purple Heart from an injury sustained in Vietnam. He says that while riding in a convoy from Camh Ranh Bay they were ambushed and he had to have glass removed from his face as a result of bullets hitting the truck's windshield. He was told that he would receive a Purple Heart but he never did.
3. A review of the applicant's service record shows:
 - a. He was inducted into the Army of the United States on 19 May 1969.
 - b. DA Form 20 (Enlisted Qualification Record) shows:
 - (1) The applicant was assigned as a Light Vehicle Driver in the 610th Engineer Company (while in the Republic of Vietnam) from 12 February 1969 until 3 January 1970.
 - (2) Item 31 (Foreign Service) – service in Vietnam from 19 February 1970 to 18 February 1971.
 - (3) Item 40 (Wounds) is void of any entries.

(4) Item 41 (Awards and Decorations) lists the applicant was awarded:

- National Defense Service Medal
- Vietnam Service Medal
- Vietnam Campaign Medal

e. He was honorably transferred to the United States Army Reserve (USAR) on 6 January 1971. His DD Form 214 shows he completed 1 year, 7 months and 18 days of active service. He was awarded or authorized:

- National Defense Service Medal
- Vietnam Campaign Medal
- Vietnam Service Medal
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-14)
- 1 Overseas Service Bar

6. The applicant's record does not contain orders for the Purple Heart.

7. His name is not shown on the Department of the Army Office of the Adjutant General Casualty Division Casualty Reference Name Listing for the period 1 January 1961 through 30 June 1973, a battle and non-battle listing of Soldiers who were killed, wounded, sick, captured, or missing during their service in Vietnam.

8. Regulatory guidance provides that there are three basic criteria for award of the Purple Heart: The Soldier must have been wounded as a result of hostile enemy action; the wound must have required treatment by medical officer; and the medical treatment must have been made a matter of official record.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the lack of information reflected on the DA Form 20 (Item 40) related to injuries incurred as a result of combat operations and/or medical documentation showing injuries related to combat operations during the applicant's Vietnam service, the Board concluded there was insufficient evidence of an error or injustice warranting awarding the applicant the requested Purple Heart.

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. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

2. Prior to closing the case, the Board noted the administrative notes below from the analyst of record and recommended those changes be completed to more accurately reflect the military service of the applicant.

2/13/2025

X

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): The applicant's service records contain evidence substantiating the following administrative corrections to the applicant's DD Form 214 without Board action:

- a. delete the Vietnam Service Medal and Vietnam Campaign Medal
- b. add the following awards:
 - Vietnam Service Medal with three bronze service stars
 - Republic of Vietnam Campaign Medal with Device (1960)
 - Republic of Vietnam Gallantry Cross with Palm Unit Citation
 - Republic of Vietnam Civil Actions Honor Medal, First Class
 - Expert Marksmanship Qualification Badge with Rifle Bar (M-16)

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.
3. By regulation (AR 635-5), in effect at the time, states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.
4. Department of the Army Pamphlet 672-3 (Unit and Campaign Participation Credit Register) shows:
 - a. Department of the Army General Orders 8, dated 1974, announced award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation for service in Vietnam to the Headquarters, United States Army Vietnam, and its subordinate units during the period 20 July 1965 to 28 March 1973.
 - b. A bronze service star is worn on the appropriate service ribbon, to include the

Vietnam Service Medal, for each credited campaign. During his service in Vietnam, the applicant participated in the following 3 campaigns:

- Vietnam Winter-Spring 1970, 1 November 1969 – 30 April 1970
- DA Sanctuary Counteroffensive Phase II, 1 May 1970 – 30 June 1970
- Vietnam Counteroffensive Phase VII, 1 July 1970 – 30 June 1971

5. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. It provides that the Purple Heart is awarded for a wound 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 a medical officer, and the medical treatment must have been made a matter of official record.

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

(1) Injury caused by enemy bullet, shrapnel, or other projectile created by enemy action.

(2) Injury caused by enemy-placed trap or mine.

(3) Injury caused by enemy-released chemical, biological, or nuclear agent.

(4) Injury caused by vehicle or aircraft accident resulting from enemy fire.

(5) Concussion injuries caused as a result of enemy-generated explosions.

(6) 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.

b. Examples of injuries or wounds which clearly do not justify award of the Purple Heart are as follows:

(1) Frostbite (excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951).

(2) Trench foot or immersion foot.

(3) Heat stroke.

- (4) Food poisoning not caused by enemy agents.
- (5) Chemical, biological, or nuclear agents not released by the enemy.
- (6) Battle fatigue.
- (7) Disease not directly caused by enemy agents.
- (8) Accidents, to include explosive, aircraft, vehicular, and other accidental wounding not related to or caused by enemy action.
- (9) Self-inflicted wounds, except when in the heat of battle and not involving gross negligence.
- (10) Post traumatic stress disorders.
- (11) Airborne (for example, parachute/jump) injuries not caused by enemy action.
- (12) Hearing loss and tinnitus (for example: ringing in the ears).
- (13) Mild traumatic brain injury 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.
- (14) Abrasions and lacerations (unless of a severity to be incapacitating).
- (15) Bruises (unless caused by direct impact of the enemy weapon and severe enough to require treatment by a medical officer)
- (16) Soft tissue injuries (for example, ligament, tendon or muscle strains, sprains, and so forth).
- (17) First degree burns.

//NOTHING FOLLOWS//