

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 August 2024

DOCKET NUMBER: AR20240000229

APPLICANT REQUESTS: reconsideration of his prior requests for award of the Purple Heart and the Bronze Star Medal with "V" Device

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

- two DD Forms 149 (Application for Correction of Military Record)
- Army Review Boards Agency (ARBA) letter, dated 10 January 2024
- self-authored statement

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's cases by the Army Board for Correction of Military Records (ABCMR) in Dockets Number: AR20150001196 on 1 September 2015 and AR20220005791 on 1 December 2022.

2. The applicant states:

a. He was assigned to the 1st Aviation Brigade, 61st Assault Combat Helicopter Company while in Vietnam. He tried but he was never awarded his Purple Heart Medal or the Bronze Star Medal with "V" Device. There is new evidence of the medic who attended him in the field, Sergeant (SGT) V\_\_\_\_ and that he recommended him for the Purple Heart. SGT V\_\_\_\_ stated he could not formally write the recommendation for the Purple Heart because he was not an officer, but his statement proves he was on duty the night of the mortar attacks.

b. He feels he deserves these medals due to the fact that he went on two tours in Vietnam and now has Parkinson's Disease related to the Agent Orange for which he is under treatment and medication administered by Department of Veterans Affairs (VA).

c. He already received most of his medals, except those that are most important to him, the Purple Heart, and the Bronze Star Medal with "V" Device, which he earned for all of his wounds and injuries received in combat. Some of the missions he participated in were not logged because they were secret missions.

3. A DD Form 4 (Enlistment Contract – Armed Forces of the United States) shows the applicant enlisted in the Regular Army on 20 October 1969.
4. The applicant's available service records do not contain a DA Form 20 (Enlisted Qualification Record) detailing his military service, to include his service in Vietnam.
5. The applicant's DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows the applicant served in Vietnam from 9 July 1970 through 7 July 1971.
6. A previously provided DA Form 31 (Request and authority for Leave) dated 31 July 1970, granting the applicant a 3-day pass from 6 August 1970 through 8 August 1970, while assigned to the 498th Medical Company (Air Ambulance) and a Headquarters, 498th Medical Company (Air Ambulance) approved one day pass, dated 3 April 1971, reflect the applicant's assignment with that organization while in Vietnam.
7. A previously provided 61st Assault Helicopter Company, 1st Aviation Brigade Chronology, dated 30 December 1970, provides a history of the 61st Assault Helicopter Company from May 1970 through December 1970. It shows:
  - a. The applicant marked the section detailing August 1970, with arrows and underlining, including handwritten notes on the history that this is the night they got hit, although there are no details of their injuries.
  - b. The August 1970 paragraph shows on 5 August 1970, a UH-1H of the 61st sustained 5 hits from automatic weapons fire. Warrant Officer One (WO1) A\_\_\_\_\_ was wounded in the leg by fragments from a round. This month also Lane AHP was attacked. The 61st sustained no damage from the attack. The majority of the support for the 173rd was that of pacification operations.
8. A 1st Aviation Brigade, Nguy Hiem, Vietnam Combat Certificate was awarded to the applicant for service in combat as a member of the Golden Hawks during the period 13 July 1970 through 5 July 1971.
9. Headquarters, U.S. Army Personnel Center Special Orders Number 188, dated 7 July 1971, released the applicant from active duty and transferred him to the U.S. Army Reserve (USAR) Control Group (Annual Training) effective 9 July 1971.
10. The applicant's DD Form 214 shows he was honorably released from active duty as an overseas returnee on 8 July 1971, and transferred to the USAR Control Group (Annual Training). He was credited with 1 year, 8 months, and 19 days of net active service, to include 11 months and 29 days of service in Vietnam. Item 24 (Decorations,

Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) shows he was awarded or authorized the:

- National Defense Service Medal
- Vietnam Service Medal
- Army Commendation Medal
- 2 overseas service bars
- Expert Marksmanship Qualification Badge with Rifle Bar (M-14)
- Marksman Marksmanship Qualification Badge with Rifle Bar (M-16)

11. U.S. Army Reserve Components Personnel and Administration Center Letter Orders Number 10-1218400, dated 6 October 1971, honorably discharged the applicant from the USAR Control Group (Annual Training) effective 7 October 1971, due to expiration term of service.

12. The applicant's available service records do not contain orders awarding him the Purple Heart or the Bronze Star Medal with "V" Device.

13. A letter from a VA Readjustment Counselor, dated 27 October 1998, shows:

a. The applicant was first seen at the Detroit Vet Center on 15 July 1997 and for 10 sessions thereafter until 29 October 1997. It was apparent he had been experiencing symptoms of sever stress due to the effects of combat trauma in Vietnam and his symptomatology meet the criteria for diagnosis of PTSD.

b. The applicant's combat stressors include many missions as a door gunner as well as on the ground. He was involved in heavy combat, witnessed brutality, torture and violent death. He recovered bodies and body parts of those killed in action and put them in body bags.

14. A partial VA Rating Decision, dated 3 March 2014, shows the applicant was previously granted service-connection for ischemic heart disease with an assigned effective date of 19 August 2002. It has been established the ischemic heart disease, Parkinson's Disease, Hairy Cell Leukemia, and other chronic B-cell leukemias warrant presumptive service-connection based upon the association between exposure to herbicides used in the Republic of Vietnam and the subsequent development of these conditions.

15. The applicant originally applied to the ABCMR in 2014, requesting all decorations, awards, and medals to which he was entitled by virtue of his service in Vietnam, to include the Purple Heart and the Bronze Star Medal with "V" Device. With this application, he provided as supporting evidence a self-authored statement, drawings, a witness statement, multiple newspaper articles, and multiple photographs, all of which

have been provided in full to the current Board for review. This supporting evidence shows in pertinent part:

a. The applicant's self-authored statement shows he indicated he was injured in Vietnam in the first week of August 1970, while in a guard tower pulling guard and the compound was assaulted by small arms and rocket fire. He was eventually ordered off the tower to the shelter of a bunker by the Sergeant of the Guard. While coming down the tower ladder carrying his M-60, he missed a step and fell backward, hitting his head as he fell. He hurt his head, the left side of his rib cage, and had blurry vision. While they were in the bunker, they were counter attacking the enemy when a mortar or grenade exploded right in front of their bunker. After things calmed down, the Sergeant of the Guard told him to see the medics. The medical clinic gave him pain killers for his pain, put stitches in his middle finger on his right hand for a cut, and bandaged his rib cage area. To this day he still has problems with his ribs and chest and has severe headaches.

b. The drawings depict the above-described scenes from the mortar attack outside the bunker, the tower, and the injuries to the applicant's ribs and head.

c. The witness statement, from H\_\_\_\_ V\_\_\_\_ shows he was stationed in Vietnam as a medic and was pulling guard duty at tower 21 in the first week of August 1970 and the applicant was on guard duty in tower 20 at the same time, when they received a mortar attack and returned fire. They came down from the tower and hid at the protective wall they built around the choppers, while receiving incoming fire. Later he saw the applicant get hit with rocks when a mortar exploded in front of them while they were coming down from tower 20 to the bunker next to the tower. He asked the applicant if he was okay because he had blood all over his face and hands; he said he was OK but he had pain in his chest and felt like his head was going to explode. About that time a jeep came and drove the applicant and his buddy to the infirmary clinic on their compound.

16. On 1 September 2015, the Board voted to grant the applicant partial relief, by awarding him the Army Good Conduct Medal, Vietnam Service Medal with two bronze service stars, Republic of Vietnam Campaign Medal with Device (1960), Republic of Vietnam Civil Actions Honor Medal First Class Unit Citation and Republic of Vietnam Gallantry Cross with Palm Unit Citation. The Board determined the evidence presented was insufficient to warrant a portion of the relief and denied award of the Bronze Star Medal with "V" Device, the Purple Heart, and all additional medals and badges.

17. A DD Form 215 (Correction to DD Form 214) issued on 5 November 2015, corrected the applicant's DD Form 214 covering the period ending 8 July 1971, by adding the: Army Good Conduct Medal, Vietnam Service Medal with two bronze service stars, Republic of Vietnam Campaign Medal with Device (1960), Republic of Vietnam

Civil Actions Honor Medal First Class Unit Citation, and Republic of Vietnam Gallantry Cross with Palm Unit Citation.

18 The applicant again applied to the ABCMR in February 2022, requesting reconsideration of his prior request for award of the Purple Heart and the Bronze Star Medal with "V" Device. All provided evidence was reviewed, which has also been provided to the current Board for review, and on 1 December 2022, the Board denied the applicant's request, determining the evidence presented did not demonstrate the existence of a probable error or injustice and that the merits of the case were insufficient as a basis to amend the prior ABCMR decision.

19. A review of the Vietnam Casualty Roster shows the applicant's name is not listed as a combat casualty.

20. There is no evidence in the applicant's available service records that he sustained a wound while in action against an enemy or as a result of hostile action, that the wound required treatment by medical personnel, and the medical treatment was made a matter of official record.

21. A previous review of the Awards and Decorations Computer Assisted Retrieval System (ADCARS) maintained by the U.S. Army Human Resources Command Military Awards Branch, an index of general orders issued during the Vietnam era between 1965 and 1973, failed to reveal any orders for the Purple Heart or the Bronze Star Medal with "V" Device pertaining to the applicant.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. Purple Heart: Deny. The applicant contends he was injured in Vietnam in the first week of August 1970. 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 found no evidence that the applicant's contended/accidental injury was caused by the enemy. Likewise, the Board did not find, and the applicant does not provide evidence that his contended injury required medical treatment or treatment records for his contended injury. Therefore, the Board determined the applicant's incident does not meet the criteria for award of the Purple Heart.

b. Bronze Star Medal with V Device. Deny. As with all personal decorations, award of the Bronze Star Medal for achievement, service, or heroism requires a formal recommendation, approval through the chain of command, and announcement in orders. The applicant does not provide evidence he was recommended for or awarded the Bronze Star Medal with V device. The applicant's service in Vietnam as well as his sincerity are not in question. However, in the absence of official orders, there is insufficient evidence to correct his records to show the Bronze Star Medal. Nevertheless, while the available evidence is insufficient for awarding the applicant a Bronze Star Medal, this in no way affects his right to pursue his claim for the Bronze Star Medal by submitting a request through his Member of Congress under the provisions of 10 USC 1130.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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 to amend the decision of the ABCMR set forth in Dockets Number

- AR20150001196 on 1 September 2015
- AR20220005791 on 1 December 2022.

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.

REFERENCES:

Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards.

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 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. The Bronze Star Medal is awarded in time of war for heroism and for meritorious achievement or service, not involving participation in aerial flight, in connection with military operations against an armed enemy, or while engaged in military operations involving conflict with an opposing armed force in which the United States is not a belligerent party. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

c. The bronze "V" device indicates acts of heroism involving conflict with an armed enemy and authorizes the bronze "V" device in conjunction with awards of the Army Commendation Medal, the Air Medal, and the Bronze Star Medal. Although more than one award of the Army Commendation Medal, the Air Medal, or the Bronze Star Medal may be made for heroism to the same person, only one "V" device may be worn on awards of the Army Commendation Medal, the Air Medal, or the Bronze Star Medal.

3. U. S. Army Vietnam Regulation 672-1 (Decorations and Awards) governed the military awards program in Vietnam during the Vietnam War. This regulation stated the Bronze Star Medal may have been awarded for heroism or for meritorious achievement or service which did not involve aerial flight but which was performed in connection with military operations against an armed enemy including combat, support, and supply operations.

//NOTHING FOLLOWS//