

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 October 2024

DOCKET NUMBER: AR20240001119

APPLICANT REQUESTS: correction of his record to show he was awarded the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- Letter, RE: Service Connection for Hepatitis C Virus (HCV)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 for a gunshot wound he sustained while on a convoy to Da Nang, Republic of Vietnam. He further states that he was seen for his injury by a medic who gave him a bag of plasma due to his bleeding and informed him that he would submit him for award of the Purple Heart. Additionally, he states he was eventually diagnosed with Hepatitis C and started treatment in 1998 with his doctor at the Veterans Administration (VA) hospital due to receiving the blood transfusion in Vietnam.

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

- a. He enlisted in the Regular Army on 19 January 1970.
- b. DA Form 20 (Enlisted Qualification Record) shows in:

(1) Item 31 (Foreign Service) service in Vietnam from 30 October 1970 through 29 October 1971.

(2) Item 38 (Record of Assignments):

- 24 September 1970; Casual – Enroute to United States Army Pacific
- 4 November 1970; 76P20; Stock Control Supplyman; 557th Light Maintenance Company
- 29 October 1971; Casual – Enroute to Continental United States
- He had excellent and good conduct and efficiency ratings with the exception of "unknown" during permanent changes of station

(3) Item 40 (Wounds) is void of any entry.

(4) Item 41 (Awards and Decorations):

- National Defense Service Medal
- Republic of Vietnam Service Medal
- Republic of Vietnam Campaign Medal
- 1 Overseas Service Bar
- Expert Marksmanship Qualification Badge with Rifle Bar (M-14)
- Marksman Marksmanship Qualification Badge with Rifle Bar (M-16)

c. On 21 January 1972, he was honorably released from active duty and transferred to the U.S. Army Reserve (USAR) under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), for early separation to join a USAR unit. He completed 2 years and 3 days of active service. DD Form 214 shows he was awarded:

- National Defense Service Medal
- Vietnam Service Medal with 2 bronze service stars
- Republic of Vietnam Campaign Medal with Device 1960

4. The applicant's available service record does not contain orders for award of the Purple Heart. Likewise, it is void of any documentation that would preclude him from award of the Army Good Conduct Medal.

5. 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. His name is not listed on the Vietnam Casualty Roster.

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.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, and applicable regulatory guidance, the Board found that relief was not warranted.
2. The Board carefully considered the applicant's contentions, his record of service to include service in Vietnam, the absence of an entry in item 40 (Wounds) on his DA Form 20, the absence of his name on the Adjutant General Casualty Division Casualty Reference Name Listing and the absence of orders in the available records. The Board considered his statement regarding his injury and his VA diagnosis, but did not find sufficient evidence in the in-service or post-service personnel or medical records to support his statement. Based on a preponderance of evidence, the Board determined that the absence of an award of a Purple Heart is not in error or unjust. The Board concurs with the corrections in the Administrative Notes below.

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, with the exception of the corrections noted in the Administrative Notes that follow, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

6/10/2025

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):

1. Reference the enclosed request for correction of military records, correct the applicant's DD Form 214, for the period ending 21 January 1972 by adding the following awards in item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized):

- Meritorious Unit Commendation
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

2. The following documents are sufficient to justify correction of the DD Form 214 without action by the Board.

- DD Form 214
- DA Form 20 (Enlisted Qualification Record)
- Department of the Army General Order (DAGO) 8, issued in 1974 to the Headquarters (Republic of Vietnam Gallantry Cross with Palm Unit Citation)
- DAGO 43, issued in 1972 to 557th Maintenance Company (Meritorious Unit Commendation)
- DA Pam 672-3

3. Correct the applicant's DD Form 214 to add the awards shown in paragraph 1 above. Provide the applicant with a copy of the corrections and the medals and citations, as

applicable. Please record the corrections in the applicant's official military personnel record.

REFERENCES:

1. Title 10, USC, 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. AR 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. AR 635-5 (Separation Documents) in effect at the time, prescribes the separation documents that will be furnished each individual who is separated from the Army. All available records will be used as a basis for the preparation of DD Form 214, including DA Form 20, and orders. Item 24; enter from section 9, DA Form 20 all decorations, service medals, campaign credits, and badges awarded or authorized, omitting authorities cited therein.

4. AR 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.

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) Abrasions and lacerations (unless of a severity to be incapacitating).

(14) Bruises (unless caused by direct impact of the enemy weapon and severe enough to require treatment by a medical officer)

(15) Soft tissue injuries (for example, ligament, tendon or muscle strains, sprains, and so forth).

(16) First degree burns.

5. AR 672-5-1 (Awards) in effect at the time states, the Army Good Conduct Medal was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 27 August 1940; for first award only, 1 year served entirely during the period 7 December 1941 to 2 March 1946; and, for the first award only, upon termination of service on or after 27 June 1950 of less than 3 years but more than 1 year. The enlisted person must have had all "excellent" conduct and efficiency ratings.

There must have been no convictions by a court-martial. However, there was no right or entitlement to the medal until the immediate commander made a positive recommendation for its award and until the awarding authority announced the award in general orders.

//NOTHING FOLLOWS//