

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 February 2024

DOCKET NUMBER: AR20240001187

APPLICANT REQUESTS:

- through counsel, reconsideration of her previous request for award of the Purple Heart (PH) and the Combat Action Badge (CAB)
- in person appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant Statement
- Brief in support from legal counsel, 7 November 2023
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 17 April 2006
- Casualty Worksheet, 20 October 2005
- Photo of Injury, 2005
- DA Form 4187 (Personnel Action), 29 July 2022
- Statement from Retired Colonel (COL) [REDACTED]
- Statement from Retired U.S. Navy Captain (CAPT) [REDACTED]
- Statement from Retired COL [REDACTED]
- U.S. Army Human Resources Command (AHRC), Denial Letter, 24 May 2022
- Department of Veterans Affairs (VA) Summary of Benefits, 26 May 2022
- Email to the Secretary of the Army, 24 January 2024

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20220009863 on 8 August 2023.

2. The applicant states, in effect, she was injured in Afghanistan from an explosion in Kabul, Afghanistan. A submission for the PH was submitted in 2006; however, the paperwork was misplaced.

a. She was attending a briefing at the U.S. Embassy, which was located less than a quarter of a mile from her Headquarters (HQ) in Kabul, Afghanistan, Camp Eggers. She was walking back to Camp Eggers and an attack occurred outside the perimeter of the Embassy. She took cover and engaged the enemy forces with her weapon. An explosion took place, and she was hit by shrapnel, which injured her right hand. After a quick reaction force from the U.S. Embassy and Camp Eggers stopped the attack, she made her way back to Camp Eggers and received medical care from their aid station. She returned to duty a week later.

b. She was told by her higher HQs that she would be put in for a PH and a CAB, but because she was in the [REDACTED] Army National Guard ([REDACTED] ARNG) and under operational command of the Commander, Combined Forces Command-Afghanistan (CFC-A), an administrative error was made, and the paperwork never reached the appropriate authorities.

c. Her unit, 111th Area Support Group (ASG), redeployed to the U.S. and she never received the PH or the CAB. Time has passed and although she assumed her PH and CAB were earned, she did not seek to have her records corrected until Command Sergeant Major (CSM) [REDACTED] asked her why she was not wearing her PH and CAB at the U.S. Army Women's Hall of Fame Ceremony. The applicant stated that she never received the orders for the awards. CSM [REDACTED], then filled out the DA Form 4187, requesting that she receive the awards and her Commanding Officer, COL (Retired (RET)) [REDACTED] did as well.

3. The applicant's legal counsel states:

a. He requests, on an expedited basis, the retroactive award of the PH and CAB to the applicant, on the basis of a preponderance of the evidence, and to correct an inadvertent error. The applicant has taken public-facing leadership roles in organizations supporting disabled veterans and female veterans. She often appears, in uniform, with senior officials such as active and retired general and flag officers. She does not wear her HALO wings, nor the CAB and PH she earned in Afghanistan.

b. Her story is important. It is inspirational to other disabled veterans, and to current and prospective female servicemembers. It is in the Army's interest that the uniform which she is authorized to proudly wear in retirement, fully and accurately reflect her unique service to and sacrifice for our country, as a trailblazer within the military intelligence, special operations, and airborne communities.

4. Counsel provides the following documents:

a. The applicant's DD Form 214 for the period ending 17 April 2006.

b. A casualty worksheet, which shows the applicant was injured on 20 October 2005 due to hostile action at Camp Eggers, Kabul.

c. A photo of the applicant's injury to her hand, dated 2005.

d. DA Form 4187 dated 29 March 2022, addressed to AHRC, requesting to be awarded the PH for injury to her right-hand during combat operations, outside Camp Eggers, Kabul, Afghanistan. She was moving from the International Security Assistance Force (ISAF) compound to Camp Eggers on foot when there was an explosion and pieces of metal entered her hand. She was driven to Bagram Airfield (BAF) and had surgery to repair the damage done to her hand and returned to light duty after several days, and full duty after a week.

e. A statement from COL (RET) [REDACTED], which states he was the garrison commander of Camp Eggers, HQs for CFC-A from 7 June 2005 to 6 March 2006, while a member of the 111th ASG. The applicant was his sergeant major at the time. They were assigned to CFC-A for all administrative support and command and control. During their time at Camp Eggers, the applicant sustained injuries that qualified her for the PH and the CAB. Since the members of the 111th ASG were assigned to CFC-A for all administrative support, the awards should have been processed by the CFC-A, J1 section. However, it was recently brought to his attention that the awards were not processed. It is his understanding that CSM P, the CSM for CFC-A at the time, signed a DA Form 4187 endorsing the award of the PH and the CAB, retroactively for the applicant.

f. A statement from CAPT (RET) [REDACTED], which states he was the Command Chaplain for all of Afghanistan, assigned to Camp Eggers, Kabul. He was in Afghanistan with the applicant when her injury happened. Although he was not outside the gate when the explosion happened, he saw her shortly afterwards as she was initially brought to the first aid station on Camp Eggers for evaluation. She was medevac'd to BAF and had surgery the next day, which included plastic surgery to lessen the scar on her hand. This was early in the war, October 2005 and there were very few female military members on the ground, and he believes the command, which was not hers but the Commander of all Troops in Afghanistan, Lieutenant General [REDACTED] was not informed of the incident until much later. She was detailed as his CSM from the [REDACTED] ARNG and therefore her chain of command was complicated.

g. A statement from COL (RET) [REDACTED], the past Commander, Chapter 353, Military Order of the PH. He states, it is his understanding that the applicant was deployed to Afghanistan from 2004 to 2006. It was during the deployment that she sustained her combat injury, a severe injury to her right hand by an exploding missile during an attack on the compound. He reviewed her documents, including the medical doctor's report who performed immediate aid, made the initial medical report, and other key documents

such as the Casualty Worksheet. He strongly believes she is eligible for the award. Having assisted numerous veterans from World War II to the present to have their records reviewed and updated with the awarding of the PH medal, he is convinced that the applicant is well deserving of this honor for her service and sacrifice while serving in a combat area of operation in Afghanistan.

h. A letter from AHRC, Awards and Decorations Branch, dated 24 May 2022, responding to the applicant's request concerning her desire to obtain an award of the PH for injuries sustained while deployed in support of Operation Enduring Freedom.

(1) They were unable to render favorable action. The statutory and regulatory criteria for the PH require it to be awarded to Soldiers who are wounded as a direct result of enemy action. The wound must have required treatment by a medical officer and been made a matter of official record. Military medical documentation from immediately after or close to the incident reflecting a diagnosis of and treatment for a qualifying wound must be provided. AHRC acknowledged receipt of the Standard Form 600 (Chronological Record of Medical Care), where she was seen for an injury to her right hand. While the information is helpful, the form is not dated and there is no indication the wound was caused by enemy action.

(2) Additionally, a request for retroactive PH must include the following: a one-page narrative describing the qualifying incident and the conditions under which the member was injured or wounded and witness statements from at least two individuals, who were personally present, observed the incident, and have direct knowledge of the event. Alternatively, other official documentation may be used to corroborate the narrative. Please note, a specific date in which the incident occurred, must be provided. Resource handouts citing the regulatory criteria for award of the PH was provided to the applicant.

i. VA Summary of Benefits, dated 26 May 2022, shows the applicant has one or more service-connected disabilities, with a combined service-connected evaluation of 100 percent. She is being paid at the 100 percent rate because she is unemployable due to her service-connected disabilities and considered to be totally and permanently disabled due solely to her service-connected disabilities.

j. A letter from the applicant to the Secretary of the Army, dated 24 January 2024, requesting her assistance and support as she continue to seek the award of the PH medal.

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

a. The applicant served in the Regular Army from 4 September 1979 to 30 September 1989 and in the ARNG from 15 September 1992 to 30 April 2006.

b. Orders Number 338-148, issued by Texas Military Forces, Joint Forces Headquarters, Austin, TX, dated 3 December 2004, which ordered the applicant to active duty for the purpose of support of Operation Enduring Freedom, with a report date of 15 December 2004.

c. Her DD Form 214 for this period shows she was honorably released from active duty on 17 April 2006. Block 13 (Decorations Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) does not list the PH or the CAB.

d. NGB Form 22 (National Guard Bureau Report of Separation and Record of Service) shows she was honorably discharged from the ARNG on 30 April 2006 and transferred to the Retired Reserve.

e. Orders Number C06-095583, issued by AHRC, Fort Knox, KY, dated 22 June 2020 shows she was placed on the retired list on 5 August 2020, in the retired grade of Sergeant Major.

6. On 8 August 2023 and in ABCMR Docket Number AR20220009863, the ABCMR determined after reviewing the application, all supporting documents, and the evidence found within the military record, relief was not warranted. The evidence presented did not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of the case were insufficient as a basis for correction of the records of the applicant concerned.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.

2. The Board found the additional evidence submitted with the applicant's request for reconsideration confirms she was wounded as a result of hostile action on 20 October 2005 and is entitled to the Purple Heart. The Board further found she met the criteria for the Combat Action Badge on this date and determined she should be awarded this badge.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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 awarding her the Purple Heart for an injury incurred as a result of hostile action on 20 October 2005 and by awarding her the Combat Action Badge effective the same date.

2/27/2024

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.

REFERENCES:

1. Army Regulation (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.

(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.
- c. The authority to approve or disapprove recommendations for the award for Servicemembers who did not receive a PH while serving in a unit with wartime awards approval authority is the Chief, Awards and Decorations Branch. Although a Servicemember may be deployed, award of the PH for injuries incurred in a previous deployment must be processed through the servicemember's current chain of command to the Commander, HRC for approval. The first general officer in the current chain of command may disapprove the recommendation.
- d. Any member of the Army who believes that they are eligible for the Purple Heart but, through unusual circumstances no award was made, may submit an application through the member's chain of command to Commander, HRC (AHRC-PDP-A). If the requestor has separated from the military, the application may be mailed directly to the

Commander, HRC (AHRC–PDP–A). The application will include the following documentation pertaining to the wound and inflicting force:

- DA Form 4187 (for currently serving members)
- Chain of command endorsement (through the first general officer in the Soldier's current chain of command for currently serving members)
- Deployment orders
- DA Form 4037 (Officer Record Brief)/enlisted records brief (ERB)/DA Form 2–1 (Personnel Qualification Record)
- One-page narrative describing the qualifying incident and the conditions under which the member was injured or wounded.
- Statements from at least two individuals, other than the proposed recipient, who were personally present, observed the incident, and have direct knowledge of the event. Alternatively, other official documentation may be used to corroborate the narrative.
- Casualty report (if available)
- SF 600 (Medical Record - Chronological Record of Medical Care)
- DD Form 214 (Certificate of Release or Discharge from Active Duty) (if applicable)

2. Army Regulation (AR) 600-8-22 states requirements for award of the CAB are branch and military occupational specialty immaterial. Assignment to a combat arms unit or a unit organized to conduct close or offensive combat operations, or performing offensive combat operations, is not required to qualify for the CAB. However, it is not intended to award the CAB to all Soldiers who serve in a combat zone or imminent danger area. The CAB may be awarded to any Soldier. Paragraph 8-8 stated specific eligibility requirements include:

a. Soldier must be performing assigned duties in an area where hostile fire pay or imminent danger pay is authorized.

b. Soldier must be personally present and actively engaging or being engaged by the enemy and performing satisfactorily in accordance with the prescribed rules of engagement.

c. Soldier must not be assigned or attached to a unit that would qualify the Soldier for the Combat Infantryman Badge/Combat Medical Badge. For example, an 11B (Infantryman) assigned to Corps staff is eligible for award of the CAB. However, an 11B assigned to an infantry battalion is not eligible for award of the CAB.

d. In addition to Army Soldiers, the CAB may also be awarded to members of other U.S. Armed Forces and foreign military personnel assigned to a U.S. Army unit, provided they meet the above criteria.

e. Award of the CAB is authorized from 18 September 2001 to a date to be determined. Award for qualifying service in any previous conflict is not authorized.

f. Retroactive award of the CAB is authorized for time periods specified for fully qualified individuals.

(1) The wartime command retains wartime awards approval authority for 12 months after redeployment and can approve award of the CAB for Soldiers who deployed with their command, and qualified for, but did not receive the CAB during the deployment.

(2) Soldiers redeployed more than 12 months or reassigned to a command other than their wartime command and qualified for the CAB while deployed may request award through command channels to Commander, U.S. Army Human Resources Command (AHRC-PDP-A), 1600 Spearhead Division Avenue, Fort Knox for retroactive award to active-duty Soldiers and RC Soldiers will be forwarded through command channels to the first general officer (for endorsement) to HRC for processing. The first general officer in the chain of command of the Soldier recommended for award of the CAB may disapprove the recommendation.

(3) All ARNG requests, once endorsed, will be submitted to the Director, Army National Guard, Arlington, VA prior to being submitted to HRC.

(4) Retirees and veterans should address their applications to HRC for processing. The DA Form 4187 with endorsement by the first general officer is not required. All other criteria must be met.

(5) Requests for retroactive award of the CAB will not be made except where evidence of injustice is presented. For retroactive requests submitted by Soldiers deployed more than 12 months or reassigned to a command other than their wartime command, the request must include justification explaining why the CAB was not awarded in theater.

3. Army Regulation 15-185 (Army Board for Correction of Military Records) 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.

a. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//