

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 October 2024

DOCKET NUMBER: AR20240001356

APPLICANT REQUESTS: in effect, award of the Purple Heart.

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

- DD Form 149, Application for Correction of Military Records
- Medical Records
- 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, in effect, he was wounded in the Republic of Vietnam by shell fragments on 9 February 1968 and both of his legs were wounded. He was taken to a field hospital; he remained there for one day and was flown to Japan where he remained in the Army hospital until 2 March 1968. He was later flown to Ireland Hospital at Fort Knox, KY; he remained there as a patient until 25 April 1968. He has numerous injuries which include:
 - small shell fragment wounds of the left thigh, posterior, and lateral
 - a few on the calf of the left leg with four surgical incision scars, depressed, widened, site of removal of large fragments
 - scar on inner right thigh, mid-portion, for removal of shell fragment
3. The record shows the applicant was inducted into the Army of the United States on 5 July 1966.
4. The applicant served in the Republic of Vietnam from 27 May 1967 to 26 May 1968 as a cannoneer, gunner, and squad leader.

5. His DA Form 20, Enlisted Qualification Record, includes the following entries and information:

a. Block 29, Qualification in Arms, shows, on 22 August 1966, he qualified as a sharpshooter with the M-14 rifle.

b. Block 31, Foreign Service shows he served in Vietnam from 27 May 1967 to 26 May 1968, which was also annotated as his expiration term of service (ETS).

c. Block 38, Record of Assignments, shows he received all excellent or unknown conduct and efficiency ratings and he was assigned to the following units -

(1) Battery D, 1st Battalion, 44th Artillery Regiment (6 June 1967 - 5 March 1968);

(2) Patient, Fort Knox, KY, (6 March 1968).

d. Block 40, Wounds, includes an entry showing the applicant received shrapnel wounds to both arms on 9 February 1968.

e. Block 41, Awards and Decorations, lists the:

- Sharpshooter Marksmanship Qualification Badge with Rifle Bar M-14
- National Defense Service Medal
- Vietnam Service Medal
- Republic of Vietnam Campaign Medal with Device (1960)
- Overseas service bar (1)

6. His name is not listed on the Vietnam casualty roster. The Vietnam casualty roster is a listing of Soldiers wounded in Vietnam; it is commonly used to verify eligibility for the Purple Heart.

7. His record contains, and the applicant provides, several medical records which show he was wounded on 9 February 1968 by shrapnel to both lower extremities when he was hit by rocket propelled grenade fragments from a hostile force. He was medically evacuated to Japan on 12 February 1968, and then on to Ireland Hospital at Fort Knox, KY, where he remained as a patient until 25 April 1968.

8. General Orders Number 10, published by Headquarters, 1st Battalion, 44th Artillery Regiment, Vietnam, on 18 April 1968, awarded him the Good Conduct Medal.

9. The applicant was honorably released from active duty on 8 May 1968. His DD Form 214, shows he was awarded or authorized the:

- National Defense Service Medal
- Sharpshooter Marksmanship Qualification Badge (Rifle)
- Vietnam Service Medal
- Vietnam Campaign medal

10. A review of the Awards and Decorations Computer-Assisted Retrieval System (ADCARS), an index of general orders issued during the Vietnam era between 1965 and 1973 maintained by the Military Awards Branch of the U.S. Army Human Resources Command, failed to reveal any Purple Heart orders pertaining to the applicant.

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. Upon review of the applicant's petition and available military records, the Board determined that the applicant sustained wounds to both legs from shell fragments during combat in the Republic of Vietnam on 9 February 1968. Evidence confirms that the applicant was immediately evaluated by medical personnel following the blast, transported to a field hospital, and remained there for one day before being flown to Japan. The applicant was then admitted to an Army hospital, where he received treatment until 2 March 1968.

2. Although the applicant's name is not listed on the Vietnam casualty roster, the Board found sufficient evidence on the applicant's DA Form 20 and in his medical records to support eligibility for the Purple Heart. Per regulatory guidance, awarding the Purple Heart requires substantiating evidence that the applicant was injured, that the wound resulted from hostile action, that medical treatment was required, and that the treatment was documented in official records. Based on these findings, the Board granted relief.

3. 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 8 May 1968 to show award of the Purple Heart.

//SIGNED//

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):

Administratively correct the applicant's DD Form 214, ending 8 May 1968, without action by the Board to add the -

1. The applicant is authorized additional awards.

- Army Good Conduct Medal
- Valorous Unit Award
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- three bronze service stars for wear on the Vietnam Service Medal

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 Army Board for Correction of Military Records (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, provides that 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. Award of the Purple Heart is announced in orders.

3. U.S. Army Vietnam Regulation 672-1, Decorations and Awards, stated the authority to award the Purple Heart was delegated to hospital commanders. It directed that all personnel treated and released within 24 hours would be awarded the Purple Heart by the organization to which the individual was assigned. Personnel requiring hospitalization in excess of 24 hours or evacuation from Vietnam would be awarded the Purple Heart directly by the hospital commander rendering treatment.

4. AR 600-8-22, Military Awards, further states the Vietnam Service Medal is awarded to all members of the Armed Forces of the United States for qualifying service in Vietnam after 3 July 1965 through 28 March 1973. A bronze service star will be awarded for wear on the Vietnam Service Medal for participation in each credited campaign. A silver service star is authorized in lieu of five bronze service stars. The applicant participated in the following four campaigns:

- Vietnam Counteroffensive, Phase II, 1 July 1966 -31 May 1967
- Vietnam Counteroffensive, Phase III, 1 June 1967-29 January 1968
- TET Counteroffensive, 30 January 1968-1 April 1968

5. Department of the Army Pamphlet 672-3, Unit Citation and Campaign Participation Credit Register, lists the awards received by units serving in Vietnam. This pamphlet shows the 1st Battalion, 44th Artillery, was cited for award of:

a. Valorous Unit Award for the period 24 January 1968 to 16 February 1968 by Department of the Army General Order (DAGO) Number 48, 1968.

b. Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period 29 July 1965 to 28 March 1973 by DAGO Number 8, 1974.

6. AR 15-185 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. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//