

IN THE CASE OF: ██████████

BOARD DATE: 18 April 2024

DOCKET NUMBER: AR20240001404

APPLICANT REQUESTS:

- a. This case comes before the Army Board for Correction of Military Records (ABCMR) on a remand from the United States District Court for the District of Minnesota. The Court directs the ABCMR to reconsider the applicant's request for award of the Purple Heart (PH).
- b. Correction of his records to show award of the Korean War Service Medal and the Republic of Korea Presidential Unit Citation.
- c. A personal appearance before the Board.

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

- In the United States District Court for the District of Minnesota Remand Case Number ██████████, filed 5 February 2024
- DD Form 149 (Application for Correction of Military Record)
- Legal Brief, 9 May 2022
- Exhibit 1: Declaration Under Penalty of Perjury of ██████████ [Applicant], 2 May 2022
- Exhibit 2: DD Form 214 (Report of Separation Report from the Armed Forces of the United States), 14 September 1952
- Exhibit 3: Morning Report, Company K, 31st Infantry, 22 May 1951
- Exhibit 4: 31st Infantry Regiment, Command Report for the Month of June 1951
- Exhibit 5: Department of Veterans Administration (VA) Military History Questionnaire, 22 December 2005
- Exhibit 6: Medical Notes and Reports, 8 June 1951, 11 June 1951, 12 June 1951, 21 June 1951, 24 June 1951, 28 June 1951
- Exhibit 7: Morning Report Company K, 31st Infantry, 15 June 1951
- Exhibit 8: Letter from the Applicant to the National Personnel Records Center (NPRC), 18 July 2018
- Exhibit 9: VA Standard Form 507 (Clinical Record), 27 February 1986 and 28 February 1986
- Exhibit 10: Office Notes of V.C.O., Medical Doctor, 23 September 1986

- Exhibit 11: VA Compensation and Pension Exam Report, 22 December 2005
- Exhibit 12: VA Radiology Report, 16 December 2005 and VA Progress Notes, 22 November 2006
- Exhibit 13: Department of Veterans Affairs (VA) Rating Decision, 11 January 2006
- Exhibit 14: Declaration Under Penalty of Perjury of ██████ [Counsel], with attached Exhibit A, 8 May 2022
  - Exhibit A, Official Military Personnel File Excerpts of Staff Sergeant (SSG) ██████
- Supplemental Memorandum and Exhibits in Support of Application, 3 March 2024
- Exhibit 15: Declaration Under Penalty of Perjury of ██████ 15 February 2024
- Exhibit 16: Declaration Under Penalty of Perjury of ██████ 20 February 2024
- Exhibit 17: Memorandum for ABCMR from the Sergeant Major of the Army, 27 February 2024
- Exhibit 18: Second Declaration Under Penalty of Perjury of ██████ [Counsel], with attached exhibits, 3 March 2024
  - Exhibit A: Journal Article, "Treatment of War Wounds, A Historical Review," 2009
  - Exhibit B: Journal Article, "Immunization to Tetanus"
  - Exhibit C: Article, "What is the purpose of a tetanus shot?", 3 September 2021
  - Exhibit D: ABCMR Docket Number AR20150014782, 3 November 2015
  - Exhibit E: ABCMR Docket Number AR20150003755, 5 May 2015
  - Exhibit F: News Article, "Closet find gets WWII vet his Purple Heart," 27 December 2017
  - Exhibit G: Air Force Board for Correction of Military Records (AFBCMR) Docket Number BC-2014-04119, 22 July 2015
  - Exhibit H: AFBCMR Docket Number BC-2012-05293, 4 September 2013
  - Exhibit I: News Article, "WWI Merchant Mariners Receive Congressional Gold Medal," 19 May 2022
  - Exhibit J: Plaintiff's Memorandum in Support of his Motion for Summary Judgement, 16 January 2024
  - Exhibit K: Journal Article, "Learning from Foreigners: U.S. Army Medical Experiences in WWI," 2024
- Exhibit 19: Declaration of ██████ [Applicant], 14 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 ABCMR in Docket Number AR202000009486 on 13 September 2021.

2. The applicant states through counsel in pertinent part:

a. On 20 March 2020, the applicant filed a Form 180 request asking that he be awarded the PH for wounds received in action in early June 1951, in the Republic of Korea while engaged in combat against an enemy of the United States. On 25 March 2020, the U.S. Army Human Resources Command (AHRC), Awards and Decorations Branch administratively denied the applicant's request, stating, "without medical documentation indicating treatment by a medical office for injuries incurred as a result of enemy action, we cannot take administrative action regarding this matter."

b. With the assistance of the Office of the United States Senator [REDACTED] the applicant appealed the administrative decision to the ABCMR on 2 November 2020. The applicant submitted new and additional evidence in support of his application for the award of the PH, which included notes by VA physicians, as well as other physicians concluding that the applicant had shrapnel in his left thigh and a scar on his thigh, consistent with being wounded by a shell fragment. The applicant also submitted Command Reports describing the intense close combat in which he and his unit engaged in June 1951 in the Republic of Korea, thereby establishing that he was engaged in combat against an enemy of the United States at the time he suffered his wound.

c. As a result of the applicant's persistence and the work of the Senator's office, he has recently discovered and obtained additional evidence to support his application to the ABCMR. This new evidence, considered in conjunction with the evidence originally submitted establishes beyond reasonable doubt that the applicant was wounded in action in early June 1951 and that his wound necessarily required treatment by a medic. The applicant has shrapnel in his body and a scar to prove he was wounded. No reasonable basis exists for determining other than that the applicant was wounded in action and is therefore entitled to the award of the PH.

d. Counsel's complete brief is available for the Board to review.

3. Counsel provides the following documents and information:

a. Declaration Under Penalty of Perjury of the Applicant, which states:

1) He is 94 years old. He was drafted into the United States Army on 24 November 1950 and assigned to the Infantry. He was trained as a rifleman and machine gunner. In Spring of 1951 he was shipped overseas, ultimately arriving in the Republic of Korea (South Korea) in April 1951. In mid-May 1951, he was assigned to 2nd Platoon, K Company, 3rd Battalion, 31st Infantry Regiment, 7th Infantry Division. At the time his unit was located within a few kilometers of the border with North Korea. In early June 1951, his platoon and company participated in an attack by the 31st Infantry. In the first days of June, the combat was intense and involved a great deal of close combat with the enemy. He saw fellow Soldiers and friends killed and wounded in action. He helped remove comrades from the battlefield. He was involved in sustained firefights that lasted over 30 minutes and he was involved in combat action that lasted hours and days.

2) In early June, a couple of days after his platoon and company went into action, his outfit was engaged in a firefight when mortars began hitting them. He laid flat to the ground as he could while waiting for air support to arrive. Once air support finished their job, he and the few surviving Soldiers were able to change locations. There were still a few snipers shooting at them, so they walked alongside a tank for protection. It was then that he felt a wet sloshing in his boot and his pants sticking to his leg. That is when he knew he had been hit. He got hit by shrapnel from a mortar fragment in his left front thigh. At first, he did not notice that he had been wounded, but as his outfit advanced from where the mortar rounds were hitting, he noticed his pants were sticking to his leg. He reached down to correct this and discovered that his hand was covered in blood. He had been hit by shrapnel in his left thigh.

3) He was treated by 2nd platoon medic, who bandaged his left thigh. The medic told him he would submit the necessary forms for being wounded in action, but at the time due to the combat situation, it was not ideal to go out of the way to prepare the forms to report the wound because they were still actively engaged with the enemy. "I think the medic who treated me later was killed in action, because apparently no form was ever submitted on my behalf to my knowledge." He did not follow up at the time because he and the rest of his comrades were too busy fighting the enemy and trying to survive.

4) A couple of days after he was wounded, and while he still had a bandage on his thigh, he hurt his back during a firefight with the enemy. He was carrying a heavy machine gun and fell down a hill during the action. A few days after that, he hurt his back again while lifting ammunition boxes. He went to the battalion aid station and got an injection of Novocain in his back. The Novocain did not help so he went back to the aid station. On about 10 June 1951, he was evacuated due his injuries. His thigh was still bandaged from the shrapnel wound. While he was at a surgical hospital, he was given a tetanus shot because of the wound in his thigh. The doctors were concerned because the metal shrapnel was still in his thigh. A day or so later he was transferred to

a Navy hospital ship off the coast of Korea. His thigh was still bandaged, but the focus of the doctors and his treatment was on his back injury, which did not allow him to perform his duties as a rifleman and machine gunner.

5) He was on the ship receiving treatment until late June 1951. His thigh wound has always bothered him, particularly when he sits in a particular position. He has been told by physicians that this is because of the location of the shrapnel near a nerve. He has been examined by his personal physician and by several doctors at the VA. He has a scar on his left thigh from the shrapnel wound he received in early June 1951. He has never lied or made up anything about the fact he was wounded in action. It happened and his scar and the metal in him proves it. At the time he was wounded, getting the PH was the least of his concerns as was making sure the right paperwork was sent in. He was focused on the combat and just surviving.

b. A Morning Report, dated 22 May 1951, shows the applicant was attached as an infantryman with Company K, 31st Infantry, in the Republic of Korea.

c. 31st Infantry Regiment, Command Report for Month of June 1951, retrieved from the National Archives and Records Administration, College Park, MD, states:

(1) "On 1 June 1951, the 31st Infantry was ordered to attack to seize line ZEBRA. As the attack proceeded the regiment met extremely stiff enemy resistance. Elements from all three battalions became engaged during the day..."

(2) "On 2 June 1951, the regiment continued its attack north to destroy the enemy in zone and secure objective line BAKER."

(3) "After a bitter fight, the 3rd Battalion was successful in securing hill 483. Despite the strong air and artillery support, the enemy had to be dug out with bayonets, hand grenades and in some cases flame throwers."

(4) "On 3 June 1951, the 31<sup>st</sup> Infantry continued to meet heavy enemy resistance as they advanced slowly forward. The regiment consolidated a line running generally from (CT 850215) to (CT 863215). Early the following morning "K" Company received a heavy enemy counterattack from both flanks and the front. The Company, however, held its positions, employed mortar and artillery fire to a maximum and drove the enemy off."

(5) On 5 June 1951, "The 3rd Battalion received repeated enemy counterattacks which attempted to drive them back but failed."

(6) "During the early morning hours on 6 June 1951, elements of the

3rd Battalion received a heavy enemy attack of estimated battalion size. The Battalion held their positions, however, and forced the enemy to withdraw.”

d. VA Military History Questionnaire shows the applicant listed he was assigned to K Company, 31st Infantry Regiment, 7th Infantry Division while in combat theater.

e. Medical Notes and Reports contains the following:

(1) On 8 June 1951, the applicant, assigned to K Company, 3<sup>rd</sup> Battalion, 31st Infantry Regiment, 7th Division, was seen at the battalion aid station for a back injury. He fell down a hill and reinjured his back in the line of duty in Korea. He was treated with a Novocain injection.

(2) On 11 June 1951, he was evacuated to 8076 Mobile Army Surgical Hospital (MASH). He was admitted and given a tetanus shot.

(3) On 12 June 1951, he was transferred to the Navy Hospital, USS Repose (AH-16). The medical history report states the applicant complained of rather severe mid-back pain for about a week following a strain while lifting ammunition and a fall down a hill. He had received three Novocain injections since 8 June 1951. The physical examination determined that he was unable to walk standing straight and had tenderness and spasm at about T-9 or T-10, especially over spinous process.

(4) On 24 June 1951 he began to have recurrent symptoms and would be discharged to duty with recommendation for re-profile.

(5) On 28 June 1951, the applicant was transferred to the 3rd Station Hospital for further disposition.

f. Morning Report, Company K, 31st Infantry, dated 15 June 1951 indicates that the applicant was evacuated to a hospital.

g. VA Standard Form 507 (Clinical Record), dated 27 February 1986, shows the applicant was evaluated. In the history section of the document, the doctor noted that in 1951 the applicant had shrapnel in his left medial thigh. About five to seven days later he was involved in a fire fight and was lifting a machine gun weighing 25 pounds. The applicant noted aching in his left lower back. An anatomical figure drawn by the physician during the examination in 1986 shows the presence of a “scar, 1cm long from shrapnel, well-healed, non-tender.”

h. On 23 September 1986, the applicant was examined by Dr. [REDACTED] for sciatic nerve pain. The physician noted that the shrapnel in his leg was irritating the nerve.

i. Veterans Administration Compensation and Pension Exam Report, dated 22 December 2005, states:

(1) The applicant has a shrapnel fragmentation wound. He was wounded in a fire fight in Korea in 1951 and saw a corpsman who wrapped the wound. The only problem is, if the applicant sits with the area against the seat of a chair it will hurt him. There was no further treatment after initially being seen.

(2) The general location of the scar is at the left lower extremity (anterior surface). The exact location of the scar is at the medial area of the left thigh in the midline and the middle of the thigh.

(3) The diagnosis: metallic fragment wound of the left medial thigh with scar residual.

(4) The medical opinion summary noted "the scar in the left thigh is at least as likely as not (50/50 probability) caused by or a result of a combat fragment wound. The story and the scar are compatible with a wound secondary to a metallic mortar fragment".

j. A Radiology report dated 16 December 2005 shows a two-view x-ray was taken of the applicant's left femur. The report showed a history of shell fragment in his inner thigh.

k. Progress notes, dated 22 November 2006, states the applicant has shrapnel in his left leg. He has chronic leg pain that is worse when sitting for long periods. The patient [applicant] was told that the shrapnel should not be removed unless he has severe pain because of proximity of the shrapnel to the sciatic nerve.

l. VA rating decision dated 11 January 2006, shows the applicant is service connected for "SFW" scar, left thigh has been established as directly related to military service. His DD Form 214 shows he received the Combat Infantryman Badge and were therefore in active combat. Although his service medical records contain no evidence of a shrapnel wound in his left thigh, the VA examiner gave the opinion that it is compatible with a wound secondary to a metallic mortar fragment. Reasonable doubt was resolved in his favor.

m. A Declaration Under Penalty of Perjury from Counsel, which states he obtained a copy of the Official Military Personnel File (OMPF) of Staff Sergeant (SSG) [REDACTED] from the NPRC. SSG [REDACTED] was a waist gunner on a B-17 that was shot down in 1944, following which he was captured. He was awarded the PH after his return, for wounds received based on information contained in a released prisoner of war questionnaire form initiated at a Recovered Allied Military Personnel Camp after liberation. He had a

wound above his left eye and his questionnaire answers, and the scar were deemed sufficient for a medical officer to conclude he was wounded in action.

n. Counsel provides a supplemental memorandum and additional exhibits in support of the application, dated 3 March 2024. The following additional exhibits/information was added:

(1) A Declaration Under Penalty of Perjury from Captain (Retired) [REDACTED] dated 15 February 2024, from a highly decorated combat medic, which states he was a combat medic in South Vietnam, and he treated infantrymen, artillerymen, and other combat Soldiers who were wounded in action by gunfire and more typically shrapnel or metallic fragments. Because of his training, combat experience and service as a medic, he is well aware of the type and nature of wounds received in combat and the necessary and typical treatment for such wounds. Having reviewed the documents, it is his opinion that the 1cm x 3cm scar that exists on the left front thigh of the applicant was the result of a shrapnel wound from a metallic fragment, while engaged in combat in early June 1951. The Command Report of the applicant's regiment describes intense, close-quarters combat, not unlike what he experienced while in South Vietnam. The applicant's description of what happened to him is consistent with being wounded in action by shrapnel. He states that he is not surprised that no record or paperwork was prepared or filed by the combat medic that treated the applicant because he did not contemporaneously complete such paperwork due to the demands of combat operations.

(2) A Declaration Under Penalty of Perjury from Colonel (Retired) [REDACTED] dated 20 February 2024, a medical doctor, board certified in both surgery and surgical critical care by the American Board of Surgery. He states, during his time in service, he deployed and worked in three combat support hospitals as a combat surgeon. He treated hundreds of combat injuries, including metallic fragment (shrapnel) injuries, and he is quite familiar with and knowledgeable of combat wounds, their treatment, after-effects, and care. Based on his review of the documents and his experience as a combat surgeon, there is no question that the applicant was wounded in action. He agrees with the assessment of the VA's physicians that the scar on the applicant's thigh is consistent with a metallic fragment wound with scar residual. A wound that left a 1cm x 3cm scar on a thigh would have required treatment by a medic or other medical professional on the battlefield and/or in a combat support hospital.

(3) A memorandum from the Sergeant Major of the Army, dated 27 February 2024, wherein he states, after reviewing the files submitted by the applicant, it is his personal opinion and belief that the documentation provided, and the applicant's recount of the situation is true and accurate. Considering this belief and despite a lack of battlefield medical documentation, he feels the request to receive the PH for shrapnel wounds received during action in the Korean War warrants another review.



(4) A second Declaration Under Penalty of Perjury from Counsel, dated 3 March 2024, with exhibits:

(a) A Journal Article titled, "Treatment of War Wounds: A Historical Review" from 2009, which reviewed the most important trends in U.S. and Western military trauma management over two centuries. It became standard Army practice to give wounded Soldiers a tetanus injection to prevent a tetanus infection.

(b) A Journal Article, titled "Immunization to Tetanus." The article states, "it is worthy to note that in at least one surgical hospital during the early days of the Korean episode, the laboratory officer organized a tetanus toxoid-penicillin team whose duty it was to administer the emergency stimulating dose of tetanus toxoid to all wounded patients on admission and at the same time to give the expectant treatment dose of penicillin."

(c) A document titled, "What is the purpose of a tetanus shot?" dated 3 September 2021, which states "A tetanus shot is a vaccine that protects you from getting tetanus. Tetanus infections most commonly happen when you suffer a wound that gives bacteria a chance to enter your body."

(d) ABCMR Docket Number 20150014782 dated 3 November 2015, ABCMR Docket Number AR20150003755 dated 5 May 2015, Air Force Board for Correction of Military Records (AFBCMR) Docket Number BC-2014-04119 dated 22 July 2015, and AFBCMR Docket Number BC-2012-05293 dated 4 September 2013, comparable decisions and actions awarding the PH to servicemembers whose records lacked an entry showing they were wounded or injured in action and it did not prevent correction of their records.

(e) News article titled, "Closet find gets WWII vet his Purple Heart" dated 27 December 2017. The WW II veteran was injured by shrapnel when the B-26 in which he was flying was shot down across enemy lines and he was taken captive by a German Soldier. The WWII veteran's military records had been destroyed in a fire and the key to his PH was hidden for years in a closet. Written on a prisoner of war identification card was the word "verwundet," German for wounded. He was finally awarded the PH on the 60<sup>th</sup> anniversary of his marriage.

(f) News article titled, "WWII Merchant Mariners Receive Congressional Gold Medal" dated 19 May 2022, which states Congress passed the Merchant Mariners of World War II Congressional Gold Medal Act in 2020 to recognize the merchant mariners for their courage and contributions during the war.

(g) The Plaintiff's [Applicant] Memorandum in Support of his Motion for Summary Judgement, dated 16 January 2024, against the Secretary of Defense and the Secretary of the Army [Defendants].

(h) Journal Article, "Learning from Foreigners: U.S. Army Medical Experiences in WWI" which shows how the Army Medical Department (AMEDD) was willing to learn from the Europeans. AMEDD sought a wide range of information, which was disseminated through multiple channels and made significant impacts on medical care. The article states "Before 1914, tetanus was not expected to be widespread in war wounds. Because European soils had been manured for centuries, however, bacteria commonly were present and trench warfare meant troops were living in that soil. In October 1914 the British were finding tetanus in 31 per 1000 wounded (3.1 percent of wounded) and started giving anti-tetanic serum to all wounded soldiers. The incidence promptly dropped below 3 per 1000 (0.3 percent) and stayed there. That lesson was passed to the Americans, and the British experience was directly taught in at least one U.S. Army school, while the similar French experience was taught at another. The AEF issued a circular in January 1918 citing the "absolute necessity" of administering anti-tetanic serum to all wounded at the regimental aid post and in August reiterated the need and pushed the location further forward, to the battalion aid station."

(5) Declaration of [REDACTED] [Applicant], dated 14 January 2024, which states he is presently 96 years old and currently reside in St. Peter, Minnesota. In 1946 he joined the U.S. Merchant Marine and honorably served as a Merchant Mariner. On 14 August 2023, he was presented with the Congressional Gold Medal in recognition of his service as a Merchant Mariner during World War II.

4. The applicant's complete military records are not available for review. The U.S. National Archives and Records Administration official website states a disastrous fire at the NPRC on 12 July 1973 destroyed approximately 16-18 million OMPFs. The fire affected approximately 80 percent of the records of Army personnel discharged between 1 November 1912 and 1 January 1960. It is believed the applicant's records were lost or destroyed in that fire.

5. There is sufficient documentation to confirm the applicant is authorized the Korean War Service Medal and the Republic of Korea Presidential Unit Citation. These items are addressed in Administrative Note(s) below and will not be considered by the Board.

6. A review of the applicant's available records show he was honorably discharged on 14 September 1952. His DD Form 214 shows in:

- a. Item 4 (Component and Branch): Army of the United States and Infantry
- b. Item 15 (Inducted): 24 November 1950

c. Item 22 (Net Service Completed for Pay Purposes this Period): 1 year, 9 months, and 21 days.

d. Item 26 (Foreign and/or Sea Service): 1 year, 4 months, and 17 days

e. Item 27 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized): Combat Infantryman Badge, Korean Service Medal with three bronze service stars, and the United Nations Service Medal

f. Item 29 (Wounds Received as a Result of Action with Enemy Forces): None

7. The applicant's DA Form 24 (Service Record) is not available for the Board to review.

8. On 23 July 2018 and in ABCMR Case Number AR20180007334, the ABCMR determined that the applicant had not exhausted all available administrative remedies to correct the alleged error or injustice and referred his application to AHRC, Awards and Decorations Branch.

9. On 25 March 2020, AHRC, Awards and Decorations Branch responded to the applicant's Congressional Representative, denying the applicant's request for award of the PH. The letter stated that without medical documentation indicating treatment by a medical office for injuries incurred as a result of enemy action, HRC could not take administrative action.

10. On 20 November 2020, the applicant's Congressional representative requested that HRC reconsider the applicant's request for award of the PH. Since the original request their office had obtained the Command Reports from the applicant's unit from June to August 1951 that show his company actively engaged with the enemy during the time of his injuries.

11. On 13 September 2021 and in ABCMR Docket Number AR20200009486, the ABCMR determined after reviewing the application and all supporting documents, relief was not warranted. The Board carefully considered applicant's contentions, military record, and regulatory guidance on the award of the PH. Per regulatory guidance, the applicant must provide or have in the service records substantiating evidence to verify that he was injured, 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. Although, some evidence available for review indicates a possible injury, is it void of further information regarding the circumstances in which it was received. Based on the preponderance of evidence available for review, the Board

determined the evidence presented was insufficient to warrant a recommendation for relief.

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 applicant's statement, supporting evidence, and the medical records show he was wounded in combat as a result of hostile enemy action and has a shrapnel wound in his left thigh. A preponderance of evidence supports that applicant's wounds required treatment by a medic in the field, and a tetanus shot and subsequent monitoring for his injuries. The shrapnel from the munition and scar from the injury are still present.
3. The Board determined the applicant is entitled to the Purple Heart and correction of his DD Form 214 to add this award.
4. The Board concurs with the corrections described in Administrative Note(s) below.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
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■	■	■	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 him the Purple Heart for a wound incurred as a result of hostile action in Korea in June 1951
- Adding the Purple Heart to his DD Form 214
- Making the corrections described in Administrative Note(s) below

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 is authorized the Korean War Service Medal and the Republic of Korea Presidential Unit Citation. Add these decorations to his DD Form 214.

REFERENCES:

1. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. 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. The Purple Heart differs from all other decorations in that an individual is not "recommended" for the decoration; rather, he or she is entitled to it upon meeting specific criteria. When contemplating eligibility for the Purple Heart, the two critical factors commanders must consider is the degree to which the enemy or hostile force caused the wound and whether the wound was so severe that it required treatment by a medical officer.

a. A wound is defined as an injury to any part of the body from an outside force or agent sustained under one or more of the conditions listed below. A physical lesion is

not required. However, the wound for which the award is made must have required treatment, not merely examination, by a medical officer. Additionally, treatment of the wound will be documented in the service member's medical and/or health record. Award of the Purple Heart may be made for wounds treated by a medical professional other than a medical officer provided a medical officer includes a statement in the service member's medical record that the extent of the wounds was such that they would have required treatment by a medical officer if one had been available to treat them.

b. The key issue commanders must take into consideration when contemplating an award of this decoration is the degree to which the enemy caused the injury. The fact that the proposed recipient was participating in direct or indirect combat operations is a necessary prerequisite but is not sole justification for award.

c. 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.

d. 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.

2. Special Regulations 615-360-1 (Discharge Procedures and Preparation of Separation Forms), in effect at the time, provided an outline of procedures to be followed in effecting the discharge of enlisted personnel for any cause (except disability) in any type of organization or separation activity and described the proper method of executing and disposing of the various forms, records, and reports required. A DD Form 214 was furnished to each enlisted person separated from the Army for any reason.

- a. The specific instructions for item 27 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbon Awarded or Authorized) stated to

enter decorations, etc., awarded or authorized during period covered by the DD Form 214 being prepared from section 9 of the DA Form 24 (Service Record) omitting authorities cited therein.

b. The specific instructions for item 29 (Wounds Received as a Result of Action with Enemy Forces) stated to enter chronologically each wound received as the result of enemy action during the period covered by the DD Form 214 being prepared. Show both date and place of action if recorded on records available at time of separation. If records are not available, the terminology "no records available" will be entered. The theater of operations in which the action occurred may be entered if exact location is not recorded.

3. Army Regulation 600-8-2 states the Korean War Service Medal is awarded to members of the U.S. Armed Forces who served in Korea and adjacent waters between 25 June 1950 and 27 July 1953. The service must have been performed, in part, while on permanent assignment for 30 consecutive days or on temporary duty for 30 consecutive or 60 non-consecutive days within the territorial limits of Korea or the waters immediately adjacent thereto.

4. Department of the Army Pamphlet 672-1 (Unit Citation and Campaign Participation Credit Register) lists the unit awards received by units serving in World War II and the Korean War. This pamphlet shows the 31st Infantry Regiment was cited for receiving the Republic of Korea Presidential Unit Citation for two periods:

a. Department of the Army General Order Number 35 dated 1951 for the period 15-27 September 1950.

b. Department of the Army General Order Number 22, dated 1956, for the period 30 September 1950 to 27 July 1953.

5. 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//