

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 October 2024

DOCKET NUMBER: AR20240001656

APPLICANT REQUESTS: the applicant, the spouse of a former service member (SM) requests whether the SM was awarded the Purple Heart and correction of his DD Form 214 if the Purple Heart is awarded.

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant Letter
- DD Form 214

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 she found a Purple Heart in the SM's belongings and she wants to know if the SM really received a purple heart.
3. The SM's service records show the following:
  - a. DA Form 47 (Record of Induction) reflects the SM was inducted into the Army of the United States on 5 March 1968.
  - b. His DD Form 214 shows he was honorably discharged to enlist in the Regular Army on 7 March 1968. He completed 3 days of net active service.
  - c. His DD Form 4 (Enlistment Record-Armed Forces of the United States) shows he enlisted in the Regular Army on 7 March 1968.
  - d. His DA Form 20 (Enlisted Qualification Record) shows in:

- item 31 (Foreign Service) served in Korea from 2 September 1968 to 20 September 1969
- Item 38 (Record of Assignments) does not show assignment at any hospital; his conduct and efficiency ratings reflect “excellent”
- item 40 (Wounds) does not list any wounds
- item 41 (Awards and Decorations) Marksman Marksmanship Qualification Badge with Rifle Bar

e. He was honorably released from active duty and transferred to the U.S. Army Reserve (USAR) on 5 March 1971. His DD Form 214 shows he completed 2 years, 11 months and 29 days net active service and was awarded or authorized the National Defense Service Medal and the Armed Forces Expeditionary Medal.

f. Orders 06-1084391, 1 June 1977 reflects the SM was honorably discharged from the USAR effective 4 March 1977.

g. His record is void of orders awarding him the Purple Heart. Additionally, the SM's name does not appear on the Vietnam Casualty Roster.

h. His record does not reflect any orders authorizing the award of the Army Good Conduct Medal. In addition, his record does not contain any derogatory information.

i. The SM is authorized additional awards not listed on his DD Form 214.

4. By regulation (AR 600-8-22), 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.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. Purple Heart: Deny. 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 in the available records which shows he was wounded as a result of hostile action and the SM's name does not appear on a Casualty

Roster. Additionally, there are no contemporaneous medical records, at the time or shortly after a possible injury, that show the SM was wounded as a result of hostile action and his alleged wound/injury required treatment. The Board determined there is insufficient evidence to support award of the Purple Heart.

b. Army Good Conduct Medal: Grant. As a related award, although not specifically requested, the Board noted that the SM served continuously on active duty from 5 March 1968 (date of induction) to 5 March 1971 (date of separation). He completed 2 years, 11 months, and 29 days of net active service. He received excellent conduct and efficiency ratings. His record does not reflect any lost time or any derogatory information that would have disqualified him from receiving his first award of the Army Good Conduct Medal, or a commander's disqualifying memorandum for this award. The Board determined he met the criteria to be awarded the Army Good Conduct Medal (1st Award).

2. 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:

1. In addition to the correction addressed in Administrative Note(s) below, the Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- awarding the SM the Army Good Conduct Medal (1st Award) for service during the period 5 March 1968 through 4 March 1971
- adding award of the Army Good Conduct (1st Award) to his DD Form 214

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to award of the Purple Heart.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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):

A review of the applicant's records shows he is authorized the following: Item 24: add the Marksman Marksmanship Qualification Badge with Rifle Bar and the Korea Defense Service Medal to his DD Form 214 period ending 5 March 1971.

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 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) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. The Purple Heart is awarded to any member who, while serving under competent authority in any capacity with one of the Army Services, has been wounded or killed or who has died or may hereafter die after being wounded:

- in any action against an enemy of the United States;
- in any action with an opposing armed force of a foreign country in which the Armed Forces of the United States are or have been engaged;
- while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party;
- as a result of an act of any such enemy of opposing armed forces;
- as a result of an act of any hostile foreign force;

b. Substantiating evidence must be provided to verify that 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.

c. A physical lesion is not required.

(1) Treatment of the wound will be documented in the member's medical and/or health record.

(2) Award may be made for a wound treated by a medical professional other than a medical officer provided a medical officer includes a statement in the member's medical record that the severity of the wound was such that it would have required treatment by a medical officer if one had been available to provide treatment.

(3) A medical professional is defined as a civilian physician or a physician extender. Physician extenders include nurse practitioners, physician assistants, and other medical professionals qualified to provide independent treatment (to include Special Forces medics). Medics (such as combat medics – military occupational specialty 68W) are not physician extenders.

(4) A medical officer is defined as a physician with officer rank. The following are medical officers:

(a) An officer of the medical corps of the Army.

(b) An officer of the medical corps of the U.S. Navy.

(c) An officer in the U.S. Air Force designated as a medical officer in accordance with Title 10, United States Code, section 101.

d. 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.

e. Examples of injuries or wounds which clearly do not justify award of the Purple Heart are as follows:

- frostbite (excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951)
- trench foot or immersion foot.
- heat stroke
- food poisoning not caused by enemy agents
- chemical, biological, or nuclear agents not released by the enemy.
- Battle fatigue
- disease not directly caused by enemy agents
- accidents, to include explosive, aircraft, vehicular, and other accidental wounding not related to or caused by enemy action

- self-inflicted wounds, except when in the heat of battle and not involving gross negligence
- post-traumatic stress disorders
- airborne (for example, parachute/jump) injuries not caused by enemy action
- hearing loss and tinnitus (for example: ringing in the ears)
- 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
- abrasions and lacerations (unless of a severity to be incapacitating)
- bruises (unless caused by direct impact of the enemy weapon and severe enough to require treatment by a medical officer)
- soft tissue injuries (for example, ligament, tendon or muscle strains, sprains, and so forth)
- first degree burns

3. Army Regulation 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. Ratings of “Unknown” for portions of the period under consideration were not disqualifying. 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.

4. Army Regulation 600-8-22 (Military Awards) states the Korea Defense Service Medal is authorized for award to members of the Armed Forces of the United States who have served on active duty in support of the defense of the Republic of Korea. The period of eligibility is 28 July 1954 to a date to be determined by the Secretary of Defense.

//NOTHING FOLLOWS//