

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 October 2024

DOCKET NUMBER: AR20240001961

APPLICANT REQUESTS:

- Correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), ending on 20 December 1968, to show he was awarded the Purple Heart
- Reissue all his awards, medals, ribbons, and certificates

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored statement
- SF 180 (Request Pertaining to Military Records)
- Information Paper – Purple Heart
- Board of Veterans' Appeals Docket Number 92-08 626
- News Article; "Mortar-Blasted Fuel Depot Saved by 'Right' Wind"
- Self-authored letter
- Photograph, Plaque
- DD Form 214, ending 20 December 1965
- DD Form 214, ending on 20 December 1968

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 requests the replacement of awards previously issued to him. The Board does not replace awards and decorations previously issued. The applicant is advised to contact the National Personnel Records Center at 1 Archive Dr, St. Louis, MO 63138. Once verified, the replacement medals and devices are shipped to the veteran by the U.S. Army Tank Automotive and Armaments Command (TACOM), Clothing and Heraldry (PSID), Post Office Box 57997, Philadelphia, PA 19111.

3. The applicant states, in part, that he did not know until around 1992, after having a Veterans Affairs (VA) hearing exam that he could possibly qualify for award of the Purple Heart. He is approaching 77 years of age and at this point in his life, this means more to him than anyone could imagine. Additionally, he states that all of his awards, medals, ribbons, and certificates have been lost and he would like to have them reissued.

4. A review of the applicant's service record confirms awards were omitted from his DD Form 214.

a. The following awards and decorations will be added to his DD Form 214 as administrative corrections and will not be considered by the Board:

- Valorous Unit Award
- Meritorious Unit Commendation
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Civil Actions Honor Medal, First Class
- 1 additional bronze service star to the previously award Vietnam Service Medal with 2 bronze service stars

b. The Board will consider his request for award of the Purple Heart.

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

a. He enlisted in the Regular Army on 1 July 1964.

b. DA Form 20 (Enlisted Qualification Record) shows in:

(1) Item 31 (Foreign Service) service in Vietnam from 19 February 1967 through 18 February 1968.

(2) Item 38 (Record of Assignments):

- 17 January 1967; Casual – Enroute to Continental United States
- 6 March 1976; 95B20; Senior Military Policeman; 152d Military Police Platoon, 199th Infantry Brigade
- 2 September 1967; Senior Military Policeman, Headquarters and Headquarters Company, 199th Infantry Brigade
- 23 March 1968, 95B20 Senior Military Policeman, 988th Military Police Company, Fort Benning, Georgia

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

(4) Item 41 (Awards and Decorations):

- Vietnam Service Medal
- National Defense Service Medal
- Republic of Vietnam Campaign Medal with Device 1960
- Army Good Conduct Medal (1st Award)
- 2 Overseas Service Bars
- Marksman Marksmanship Qualification Badge with Pistol Bar (.45 Caliber)
- First Class Gunner Marksmanship Qualification Badge with Machine Gun Bar (M-60)
- Marksman Marksmanship Qualification Badge with Rifle Bar (M-14)

c. On 20 December 1968, 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 expiration term of service. He completed 4 years, 5 months, and 20 days of total 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
- Army Good Conduct Medal (1st Award)
- 2 Overseas Service Bars
- Marksman Marksmanship Qualification Badge with Pistol Bar (.45 Caliber)
- First Class Gunner Marksmanship Qualification Badge with Machine Gun Bar (M-60)
- Marksman Marksmanship Qualification Badge with Rifle Bar (M-14)

6. The applicant's available service record does not contain orders for award of the Purple Heart.

7. 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.

8. 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.

9. The applicant provides:

a. SF 180 dated 19 December 2023, in which the applicant requests his official military personnel file, medical records, and replacement of military awards and decorations.

b. An information paper on the criteria for award of the Purple Heart.

c. Board of Veterans' Appeals Docket Number 92-08 626 dated 30 March 1994, that shows he appealed the entitlement to service connection for perforated eardrums, bilateral sensorineural hearing loss, and peptic ulcer disease. He contends that his left eardrum was ruptured after exposure to a mortar explosion in service. The board granted service connection for perforations of the left eardrum, but denied service connection for perforation of the right ear drum, bilateral sensorineural hearing loss and peptic ulcer disease.

d. A letter the applicant wrote home to his parents in September 1967 describing how wrong he was about how safe Nha Be was and attached a news article from the Stars and Stripes titled "Mortar-Blasted Fuel Depot Saved by 'Right' Wind."

e. A photograph of a plaque issued to the applicant that states "from the men of the Combined Intelligence Center, Nha Be, Vietnam, February 1967 – February 1968."

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not 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 the Department of Veteran Affairs appeal summary was insufficient to support eligibility requirement for award of the Purple Heart. The Board carefully considered the Board of Veterans' Appeals overview finding the bursting of his left eardrum as service -connected.

2. However, the Board agreed there was insufficient evidence that showed the applicant's name on the casualty listing or notification to his family that he had been wounded. Although, the applicant was seen by medical officials the record is absent documentation to support the he had a 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 as specified in the criteria for award of the Purple Heart. Per the regulatory guidance on awarding the Purple Heart, the applicant must provide or have in his 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. Based on regulatory guidance and the absence of sufficient evidence, the Board denied 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:

Except for the correction addressed in Administrative Note(s) below, the Board found the evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

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 20 December 1968 by adding the following awards in item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized):

- Valorous Unit Award
- Meritorious Unit Commendation
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Civil Actions Honor Medal, First Class
- 1 additional bronze service star to the previously award Vietnam Service Medal with 2 bronze service stars

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) 48, issued in 1968 to Headquarters and Headquarters Company, 199th Infantry Brigade (Valorous Unit Award)
- DAGO 69, issued in 1970 to Headquarters and Headquarters Company, 199th Infantry Brigade (Meritorious Unit Commendation)
- DAGO 43, issued in 1970 to Headquarters and Headquarters Company, 199th Infantry Brigade (Republic of Vietnam Gallantry Cross with Palm Unit Citation)
- DAGO 51, issued in 1971 to Headquarters and Headquarters Company, 199th Infantry Brigade (Republic of Vietnam Civil Actions Honor Medal, First Class)
- 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.

//NOTHING FOLLOWS//