

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 October 2024

DOCKET NUMBER: AR20240002077

APPLICANT REQUESTS: award of the Purple Heart (PH).

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored letter
- Sworn statements (3)
- U.S. Army Human Resources Command (HRC) denial letter
- Miscellaneous medical documents
- Temporary Change of Station Order
- Award Order
- DD Form 214 (Certificate of Release or Discharge from Active Duty)

FACTS:

1. The applicant states he got a concussion, mild traumatic brain injury (mTBI) from a rocket attack while serving in Afghanistan. He was placed on "light duty" for 4 days. The symptoms persisted; he went back to sick call, and was placed on "light duty" for another 3 days. Due to regulatory guidance, he believes he is eligible for award of the PH. His injury was due to enemy actions.

2. On 21 December 2007, the applicant enlisted in [REDACTED] Army National Guard (ARNG). Upon completion of initial entry training, he was awarded the military occupational specialty 88M (Motor Transport Operator).

3. On 27 July 2011, the applicant began service in Afghanistan.

4. A DD Form 689 (Individual Sick Slip) dated 5 October 2011, notes the applicant sought treatment for headaches and dizziness stemming from an enemy rocket attack on 2 October 2011. The attending physician placed the applicant on light duty, and advised him to return for follow-up in two days if the symptoms persisted.

5. A DD Form 689 dated 8 October 2011, notes the applicant was sought follow-up treatment for headaches. The attending physician kept the applicant on light duty.

6. Permanent Orders Number 290-001, issued by Headquarters, 7th Sustainment Brigade, Joint Sustainment Command, Kandahar Airfield, Afghanistan, on 17 October 2011, awarded the applicant the Combat Action Badge for actively engaging or being engaged by the enemy, on 2 October 2011.

7. The applicant departed Afghanistan on 28 May 2012.

8. On 10 July 2012, the applicant was honorably released from active duty and returned to the control of the ARNG. His DD Form 214, shows in item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) the:

- Afghanistan Campaign Medal with Campaign Star
- Army Commendation Medal
- Army Good Conduct Medal
- National Defense Service Medal
- Global War on Terrorism Service Medal
- Army Service Ribbon
- Overseas Service Ribbon
- Armed Forces Reserve Medal with M Device
- North Atlantic Treaty Organization (NATO) Medal
- Combat Action Badge

9. Medical Progress notes show that on 13 December 2012, he received a consultation for possible TBI. The attending physician noted the applicant had a history of blast injury associated with brief period of disorientation and post event headache consistent with mTBI. The physician referred the applicant for a mental health evaluation, scheduled Magnetic Resonance Imaging, and TBI follow-up as needed.

10. On 16 June 2017, the applicant was ordered to full-time National Guard Duty in an Active Guard Reserve status.

11. On 25 December 2023, the applicant was honorably released from active duty and returned to the control of the ARNG. His DD Form 214, shows he was awarded or authorized the:

- Army Commendation Medal (4th Award)
- Army Achievement Medal
- Army Good Conduct Medal (3rd Award)
- Army Reserve Component Achievement Medal (3rd Award)
- National Defense Service Medal
- Global War on Terrorism Service Medal
- Noncommissioned Officer Professional Development Ribbon (3rd Award)

- Army Service Ribbon
- Overseas Service Ribbon
- Armed Forces Reserve Medal
- Armed Forces Reserve Medal with M Device
- NATO Medal
- Army National Guard Recruiter Badge, Basic
- Combat Action Badge
- Driver and Mechanic Badge with Driver- wheeled Vehicle(s) Clasp

12. On 1 May 2023, HRC, denied the applicant award of the PH because he did not meet the strict criteria. The applicant's recommendation did not meet the statutory guidance outlined in Army Regulation 600-8-22 (Military Awards), paragraph 2-8j: "When considering award of the PH for a mTBI or concussion that did not result in the loss of consciousness, the chain of command will ensure the diagnosed mTBI (or concussion) resulted in a disposition of "not fit for full duty" by a medical officer for a period of greater than 48 hours based on persistent signs, symptoms, or findings of functional impairment resulting from the concussive event." Combat theater and unit command policies, or medical protocols, mandating rest periods, light duty, or "down time" and/or the administration of pain medication (for example acetaminophen, aspirin, or ibuprofen) in the absence of persistent symptoms of impairment following concussive incidents do not constitute qualifying treatment for a concussive injury.

13. The applicant provides three sworn statements that collectively detail the 2 October 2011, enemy rocket attack and its effect to the applicant's health.

14. Army Regulation 600-8-22, paragraph 2-8h provides examples of injuries or wounds which clearly do not justify award of the Purple Heart which includes:

- battle fatigue
- post-traumatic stress disorder
- 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

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, one potential outcome considered the possibility of granting relief based on supporting

medical documentation, which indicated the applicant was placed on light duty for three days. However, the records did not reflect the applicant’s name on the official casualty listing, nor was there any notification to his family regarding a combat-related wound.

2. The Board acknowledged the applicant’s witness statements and medical sick call slip, which documented symptoms of headaches and dizziness following the rocket blast incident. Despite these reports, the Board concluded that there was insufficient evidence to substantiate that the applicant was wounded by hostile enemy forces, as required by regulatory guidance for awarding the Purple Heart. Given the lack of definitive documentation meeting the eligibility criteria, the Board denied relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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.

REFERENCES:

1. Army Regulation 15-185 (ABCMR) paragraph 2-9 states 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.
2. Army Directive 2011-07 (Awarding the Purple Heart), dated 18 March 2011, provides clarifying guidance to ensure the uniform application of advancements in medical knowledge and treatment protocols when considering recommendations for award of the PH for concussions (including mTBI) and concussive injuries that do not result in a loss of consciousness). The directive also revised Army Regulation 600-8-22 to reflect the clarifying guidance.
 - a. Approval of the PH requires the following factors among others outlined in Department of Defense Manual 1348.33 (Manual of Military Decorations and Awards), Volume 3, paragraph 5c: wound, injury or death must have been the result of an enemy or hostile act, international terrorist attack, or friendly fire and the wound for which the award is made must have required treatment, not merely examination, by a medical officer. Additionally, treatment of the wound shall be documented in the Soldier's medical record.
 - b. Award of the PH may be made for wounds treated by a medical professional other than a medical officer provided a medical officer includes a statement in the Soldier'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.
 - c. A medical officer is defined as a physician with officer rank. The following are medical officers: an officer of the Medical Corps of the Army, an officer of the Medical Corps of the Navy, or an officer in the Air Force designated as a medical officer in accordance with Title 10, U.S Code, section 101.
 - d. 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 (for example, independent duty corpsmen and Special Forces medics). Basic corpsmen and medics (such as combat medics) are not physician extenders.
 - e. When recommending and considering award of the PH for concussion injuries, the chain of command will ensure that the criteria are met and that both diagnostic and treatment factors are present and documented in the Soldier's medical record by a medical officer.

f. The following nonexclusive list provides examples of signs, symptoms or medical conditions documented by a medical officer or medical professional that meet the standard for the PH:

- (1) Diagnosis of concussion or mild TBI;
- (2) Any period of loss or a decreased level of consciousness;
- (3) Any loss of memory of events immediately before or after the injury;
- (4) Neurological deficits (weakness, loss of balance, change in vision, praxis (that is, difficulty with coordinating movements), headaches, nausea, difficulty with understanding or expressing words, sensitivity to light, etc.) that may or may not be transient; and
- (5) Intracranial lesion (positive CT or magnetic resonance imaging (MRI) scan).

g. The following nonexclusive list provides examples of medical treatment for concussion that meet the standard of treatment necessary for award of the PH:

- (1) Limitation of duty following the incident (limited duty, quarters, etc.);
- (2) Pain medication, such as acetaminophen, aspirin, ibuprofen, etc., to treat the injury;
- (3) Referral to a neurologist or neuropsychologist to treat the injury; and
- (4) Rehabilitation (such as occupational therapy, physical therapy, etc.) to treat the injury.

h. Combat theater and unit command policies mandating rest periods or downtime following incidents do not constitute qualifying treatment for concussion injuries. To qualify as medical treatment, a medical officer or medical professional must have directed the rest period for the individual after diagnosis of an injury.

3. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. The PH is awarded any member of an Armed Force of the U.S. who has been wounded, killed, or who has died or may hereafter die of wounds. To qualify for award of the PH, the wound must have been of such severity that it required treatment, not merely examination, by a

medical officer. A wound is defined as an injury to any part of the body from an outside force or agent. A physical lesion is not required.

a. Treatment of the wound will be documented in the member's medical or health record.

b. 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.

c. When considering award of the PH for a mTBI or concussion that did not result in the loss of consciousness, the chain of command will ensure the diagnosed mTBI resulted in a disposition of "not fit for full duty" by a medical officer for a period of greater than 48 hours based on persistent signs, symptoms, or findings of functional impairment resulting from the concussive event.

d. For the purposes of this award, a medical professional is 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) are not physician extenders.

//NOTHING FOLLOWS//