

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 November 2024

DOCKET NUMBER: AR20240002511

APPLICANT REQUESTS: amendment of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending 9 December 1969 to show the award of the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement dated 23 December 2023
- Letter from Orthopedic Institute dated 20 December 2023
- 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 he is requesting addition of the Purple Heart to his DD Form 214. He states he was a door gunner on a UH1H Helicopter in Long Vinh, Vietnam. On or about 5 February 1969, they received rocket and mortar attacks, and they were shot down five times while inserting troops in the landing zone. Later that night a mortar landed outside of the barracks. When he got to the flight line he realized he had a cut on his knee. He went to the doctor who stated there was shrapnel under the skin from the mortar. The doctor stated that surgery did not have to be done if it was not bothering him.
3. The applicant provides a letter from the Orthopedic Institute stating he is a patient and has a foreign object in his left knee.

4. A review of the applicant's service records shows:

a. He was inducted into the Army of the United States on 2 May 1968.

b. He served in Vietnam from 3 November 1968 to 9 December 1969. His DA Form 20 (Enlisted Qualification Record) shows in:

- Item 38 (Record of Assignments)
 - 14 November 1968 – A/C Fuel Handler, Headquarters and Headquarters Troop, 7th Squadron, 1st Air Cavalry (USARPAC Vietnam)
 - 28 February 1969 – Airfield Service Crewman, Headquarters and Headquarters Troop, 7th Squadron, 1st Air Cavalry (USARPAC Vietnam)
- Item 40 (Wounds): No entry
- Item 41 (Awards and Decorations):
 - National Defense Service Medal
 - Aircraft Crewman Badge
 - Vietnam Service Medal
 - Vietnam Campaign Medal
 - 1st Overseas Bar
 - Aircraft Crewman Badge (Permanent)
 - Air Medal
 - Good Conduct Medal 1st Award
 - Army Commendation Medal, 2nd Overseas Bar

c. He was honorably released from active duty on 9 December 1969. His DD Form 214 shows he completed 1 year, 7 months, and 8 days of active service. It also shows in:

- Block 22 (Foreign and/or Sea Service) – 1 year, 1 month and 5 days
- Block 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons, Awarded or Authorized):
 - National Defense Service Medal
 - Air Medal
 - Good Conduct Medal
 - Vietnam Service Medal
 - Army Commendation Medal
 - Vietnam Campaign Medal
 - Aircraft Crewman Badge

d. His name is not shown on the Vietnam Casualty Roster, a compilation of most of those who were wounded in Vietnam, which is used to verify eligibility for the Purple Heart.

e. A review of the Archival Database – Awards Information Management System (AIMS) maintained by the National Archives, which is an index of awards issued during the Vietnam era between 1965 and 1975, failed to reveal any orders for the Purple Heart pertaining to the applicant.

5. By regulation, the Purple Heart is awarded for a wound/injury 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 medical personnel
- the medical treatment must have been made a matter of official record

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant’s contentions, the military record, and regulatory guidance were carefully considered. Although the applicant provides a medical statement from his current doctor showing he has a “foreign body” in his left knee, the Board found insufficient evidence that the foreign body was from a combat event, while serving on military status. As a result, the Board recommended denying relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. 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.
2. Prior to closing the case, the Board did note the administrative notes below from the analyst of record and recommended the reflected changes be completed to more accurately reflect the military service of the applicant.

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):

A review of the applicant's service records show he is authorized additional campaign credit not annotated on his DD Form 214. As a result, amend his DD Form 214 to show:

- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16)
- Republic of Vietnam Gallantry Cross Unit Citation with Palm
- four bronze service stars with his previously awarded 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 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 600-8-22 (Military Awards) provides Army policy, criteria, and administrative instructions concerning individual military decorations. The Purple Heart is awarded in the name of the President of the United States to any member of an Armed Force or any civilian national of the United States who, while serving under competent authority in any capacity with one of the U.S. Armed Services after 5 April 1917, 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 U.S. are or have been engaged
- While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the U.S. is not a belligerent party.
- As the result of an act of any such enemy of opposing Armed Forces
- As the result of an act of any hostile foreign force

3. The Purple Heart was established by General George Washington at Newburgh, NY on 7 August 1782 during the Revolutionary War. It was reestablished by the President of the United States per War Department General Orders Number 3 in 1932. It was awarded in the name of the President of the United States to any member of the Armed Forces or any civilian national of the United States who, while serving under competent authority in any capacity with one of the U.S. Armed Services after 5 April 1917, died or sustained wounds as a result of hostile action. Effective 19 May 1998, award of the Purple Heart is limited to members of the Armed Forces of the United States.

4. Department of the Army Pamphlet 672-3 (Unit Citations and Campaign Participation Credit Register) assist commanders and personnel officers in determining or establishing the eligibility of individual members for campaign participation credit, assault landing credit, and unit citation badges awarded during the Vietnam Conflict. Department of the Army General Orders (DAGO) Number 8, dated 1974, awarded the Republic of Vietnam Gallantry Cross Unit Citation with Palm to Headquarters, United States Army Vietnam, for service in Vietnam for the period of 20 July 1965 to 28 March 1973.

//NOTHING FOLLOWS//