

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 December 2024

DOCKET NUMBER: AR20240003799

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show award of the Purple Heart. Additionally, he requests an opportunity to appear before the Board by video or telephone.

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant's Statement
- 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, in effect, at the time of his injury he was offered the Purple Heart in the field, but he rejected it, on the basis that others were hurt more, not understanding the future benefits of receiving it. However, according to the definition, he deserves the award. His injury occurred during a battle with a hostile foreign force. He was hit by multiple shrapnel fragments in various parts of his body. Some were removed surgically, others worked their way out naturally, and there are some fragments still in place.

a. In January 1970, he arrived at Bien Hoa Airbase, and he was assigned to the 25th Infantry Division at the Cu Chi Base Camp in Vietnam. They were dispersed and some of them went to Tay Ninh and from there to the Fire Support Base Buell [artillery base in Vietnam, defended by the 25th Infantry Division]. His squad was responsible for mine sweeps, bomb, and munitions disposal, and explosives inventory in addition to participating in missions assigned to their infantry unit.

b. In March, or there about, he was on such a mission when they came upon a huge rice cash as big as a house. There were so many booby traps, a squad of three guys

could not clear the area fast enough. There was also light combat, and a mine exploded. He and another Soldier were blown off the track and they scrambled for cover.

c. That day, he got small fragments of metal in his leg, hand, chest, and face. When the medic was fixing him up, he said he would put him in for a Purple Heart. He was age 20 at the time and full of himself so he told the medic, "that don't mean anything to me."

d. Shortly after returning from Vietnam a doctor cut a fragment out of his knuckle. Some fragments have worked themselves out of his body over time and currently there are still a couple of pieces in his leg and chest. He is glad to have the reminder of these fragments, but he wishes he had not been so glib about the Purple Heart. In hindsight he realizes the Purple Heart can be of benefit at this stage of his life. Therefore, he is requesting the award.

3. A review of the applicant's record revealed the applicant's unit was awarded unit awards not listed on his DD Form 214; these will be addressed through an administrative correction without action by the Board.

4. The Board will consider the applicant's entitlement to award of the Good Conduct Medal and Purple Heart.

5. On 28 February 1969, the applicant enlisted in the Regular Army for 2 years. He held military occupational specialty 12B (Combat Engineer).

6. His DA Form 20 (Enlisted Qualification Record) includes the following information or entries:

a. Item 31 (Foreign Service) and 38 (Record of Assignments) show he received all excellent or unknown conduct and efficiency ratings, and he served in Vietnam from 11 January 1970 to 19 November 1970, during which time, he was assigned to Company A, 65th Engineer Battalion, 25th Infantry Division, from 21 January to 19 November 1970.

b. Item 40 (Wounds), No annotations.

c. Item 41 (Awards and Decorations) does not list the Purple Heart, but it does list the:

- National Defense Service Medal
- Vietnam Service Medal
- Army Commendation Medal (1st Oak Leaf Cluster)
- 2 Overseas Service Bars

- Marksman Marksmanship Qualification Badge with Rifle Bar (M-14)
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16).

8. General Orders from Department of the Army, Headquarters, 25th Infantry Division awarded the applicant the Army Commendation Medal in the following orders:

a. General Orders 8072 announced award of the Army Commendation Medal (1st Award) for meritorious achievement in connection with military operations against a hostile force, during the period 1 May to 30 June 1970.

b. General Orders 8128 announced award of the Army Commendation Medal with 1st Oak Leaf Cluster (2nd Award) for meritorious achievement in connection with military operations against a hostile force, during the period 1 May to 30 June 1970.

c. Both orders are for meritorious achievement in connection with military operations against a hostile force, during the period 1 May to 30 June 1970.

9. His DD Form 214 shows, on 25 November 1970, he was honorably released from active duty and transferred to the United States Army Reserve Control Group Annual Training. He completed 1 year, 8 months, and 28 days of net active service this period, of which, 10 months and 13 days were credited as foreign service in Vietnam from 11 January 1970 to 24 November 1970. Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) lists the -

- Army Commendation Medal
- National Defense Service Medal
- Vietnam Service Medal
- Vietnam Campaign Medal with Device (1960)
- Bronze Star Medal
- Two Overseas Bars
- Expert Marksmanship Qualification Badge with Rifle Bar (M-16)
- Marksman Marksmanship Qualification Badge with Rifle Bar (M-16)

10. The applicant's name is not listed on the RVN Casualty Roster.

11. A review by U.S. Army Human Resources Command (HRC) of the Awards and Decorations Computer-Assisted Retrieval System, an index of general orders issued during the Vietnam era between 1965 and 1973 maintained by the Awards and Decorations Branch of HRC, failed to reveal orders awarding him the Purple Heart.

12. The evidence of record shows he served honorably from 28 February 1969 through 25 November 1970. He served in Vietnam and received "excellent" conduct and efficiency ratings throughout his military service. His record is void of any derogatory

information that would have disqualified him from receiving his first award of the Army Good Conduct Medal.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the information on the applicant's DA Form 20 showing he had excellent ratings for his entire period of military service, the Board concluded there was insufficient evidence to award and add the Army Good Conduct Medal to the applicant's military record. However, based upon the lack of information reflected on the applicant's DA Form 20 (or other documents) related to the applicant's stated injuries, the Board concluded there was insufficient evidence to award the Purple Heart.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. 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 Army records of the individual concerned be corrected by amending the applicant's DD Form 214 by awarding and adding the Army Good Conduct Medal.
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 awarding and adding the Purple Heart.
3. Prior to closing the case, the Board noted the administrative notes below from the analyst of record and recommended those changes also be completed to more accurately reflect the military service of the applicant.

3/17/2025


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 record found evidence sufficient to amend his DD Form 214 for the period ending 25 November 1970 deleting the Vietnam Service Medal and adding the -

- Vietnam Service Medal with 3 bronze service stars
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Civil Actions Honor Medal First Class

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 provides, in pertinent part, for award of:

a. A bronze service star, based on qualifying service, for each campaign listed in Appendix B of this regulation and states that authorized bronze service stars will be worn on the appropriate service medal. He is entitled to three bronze service stars to be worn on the Vietnam Service Medal. The applicant served during the following three campaigns:

- Winter - Spring 1970, 1 November 1969 - 30 April 1970
- Sanctuary Counteroffensive, 1 May - 30 June 1970
- Counteroffensive Phase VII, 1 July 1970 - 30 June 1971

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

c. The Good Conduct Medal is awarded to individuals who distinguish themselves by their conduct, efficiency and fidelity during a qualifying period of active-duty enlisted service. This period is 3 years except in those cases when the period for the first award ends with the termination of a period of Federal military service. Although there is no automatic entitlement to the Good Conduct Medal, disqualification must be justified. Current practice requires that the commander provide written notice of nonfavorable consideration and permits the individual to respond.

d. Only one decoration will be awarded to an individual or unit for the same act, achievement, or period of meritorious service.

3. Army Regulation 672-5-1 (Awards), in effect at the time, stated 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. Service school efficiency ratings based upon academic proficiency of at least "Good" rendered subsequent to 22 November 1955 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. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) shows -

a. Department of the Army General Orders (DAGO) 8, 1974, announced award of the RVN Gallantry Cross Unit Citation with Palm for service in Vietnam to the following units:

(1) Headquarters, United States Military Assistance Command and its subordinate units during the period 8 February 1962 to 28 March 1973.

(2) Headquarters, United States Army Vietnam and its subordinate units during the period 20 July 1965 to 28 March 1973.

b. DAGO 51, 1971, announced award of the Republic of Vietnam Civil Actions Honor Medal First Class Unit Citation to the 25th Infantry Division, during the period 1 January 1966 to 21 January 1970.

//NOTHING FOLLOWS//