

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 January 2025

DOCKET NUMBER: AR20240003831

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show in:

- item 12 (Last Duty Assignment and Major Command) the company designation as 379th, vice the 399th
- item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized):
 - Purple Heart
 - Bronze Star Medal

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214
- Headquarters, U.S. Army Support Command, Saigon Orders
- Extract from DA Form 20 (Enlisted Qualification Record)
- U.S. Senator's Letter
- Applicant's Letter to Governor

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 his DD Form 214 is inaccurate; his last duty assignment is wrong and, as he wrote in his letter to his governor, he was supposed to have already been awarded the Bronze Star Medal and the Purple Heart. Regarding the Purple Heart, the applicant discloses that he incurred wounds while participating in mine training and points to the entry for excess leave in the remarks section of his DD Form 214; he affirms he was in a cast for those 15 days (5 to 20 August 1971).

3. The applicant provides documents from his service record and two letters.

a. In September 2023, the applicant wrote his governor, requesting assistance to receiving the medals he earned while in Vietnam and correcting his unit of assignment on his DD Form 214.

(1) The applicant stated his commanding officer told him he had a Bronze Star Medal, but I chose to go ahead and leave instead of waiting to receive the star. Also, if you get wounded in the line of duty, you are supposed to receive a Purple Heart. On his expiration of term of service (ETS) papers, he wrote down that he was hit, but no one can seem to be able to find a copy of that paperwork.

(2) Additionally, the applicant indicated a doctor diagnosed him with having shrapnel in his knees following the applicant's separation from the Army, "which proves that I was injured in Vietnam...Dr. A__ told me that if the shrapnel had been in my knee prior to going to Vietnam, they would never (have) sent me there."

b. In January 2024, the applicant's U.S. Senator wrote the applicant after the applicant's governor forwarded the applicant's request for assistance. Following a review of the applicant's service records, the Senator's staff was unable to find any evidence the applicant was awarded either the Bronze Star Medal or the Purple Heart. The U.S. Senator asked the applicant to provide additional information and recommended the applicant apply to the ABCMR for resolution of his concerns.

4. The applicant's requested relief for amending the unit designation in item 12 of his DD Form 214 is supported by sufficient evidence; as a result, that portion of the requested relief will be addressed in the "ADMINISTRATIVE NOTE(S)" section and will not be considered by the Board.

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

a. On 17 June 1970, the Army of the United States (AUS) inducted the applicant. His DA Form 20 indicates he underwent initial entry training between June 1970 and June 1971 and was awarded military occupational specialty 64B (Heavy Vehicle Driver).

b. The applicant's DA Form 20 (Enlisted Qualification Record) shows he arrived in Vietnam, on or about 24 August 1971, and, on or about 1 September 1971, orders further assigned him to the 538th Transportation Company. On 22 November 1971, the applicant transferred to the 379th Transportation Company.

c. On 8 March 1972, Headquarters, U.S. Army Support Command, Saigon Special Orders directed the applicant's reassignment from the 379th Transportation Company to the U.S. Army Transfer Station in Oakland, CA; he was to report on 22 March 1972.

d. On 19 March 1972, after arriving at the U.S. Army Transfer Station in Oakland, the applicant completed a DA Form 664 (Serviceman's Statement Concerning Application for Compensation from the Veterans Administration (VA)). The form instructed separating Soldiers to list any wounds or injuries sustained while in the Army; on the form, the applicant wrote, "Hurt Knee," and added his initials.

e. On 20 March 1972, the applicant underwent a separation physical; the examining physician found no physical defects and declared the applicant was qualified for separation.

f. On 22 March 1972, the AUS honorably released the applicant from active duty, based on an early release policy, and transferred him to the U.S. Army Reserve for the remainder of his service obligation. His DD Form 214 shows he completed 1 year, 9 months, and 6 days of active duty. His DD Form 214 also shows in:

(1) item 24: National Defense Service Medal, Vietnam Service Medal, and Republic of Vietnam Campaign Medal with Device (1960).

(2) Item 26a (Non-Pay Periods/Time Lost): 5-20 August 1971.

(3) Item 30 (Remarks): Service in Vietnam from 24 August 1971 to 19 March 1972; 15-days' excess leave 5 to 20 August 1971.

g. The applicant's DA Form 20 shows in:

(1) Item 33 (Appointments and Reductions): he attained the rank of specialist four (SP4)/E-4; no reductions in rank are reflected.

(2) Item 38 (Record of Assignments – Conduct – Efficiency): the applicant received "Excellent" conduct and efficiency ratings throughout his term of active-duty service.

(3) Item 41 (Awards and Decorations): neither the Bronze Star Medal nor the Purple Heart is listed.

h. The applicant's service record is void of any General Orders awarding either the Bronze Star Medal or the Purple Heart; in addition, there are no courts-martial convictions or other disciplinary actions.

6. The Vietnam Casualty Roster identifies, by name, Soldiers who were casualties during the Vietnam War; it is commonly used to verify the entitlement to the award of the Purple Heart. The applicant is not listed on this roster.

7. A review 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 U.S. Army Human Resources Command, failed to reveal orders pertaining to the applicant for either the Bronze Star Medal or Purple Heart.

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 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 there is insufficient evidence to support award of either the Purple Heart or the Bronze Star Medal. The applicant's record shows he honorably served in the Army of the United States from 17 June 1970 to 22 March 1972, including a tour in Vietnam as a Heavy Vehicle Driver with the 538th and 379th Transportation Companies.

2. The Board noted, the Purple Heart is awarded to service members who are wounded or killed as a result of enemy action, and the Bronze Star Medal is awarded for heroic or meritorious achievement in a combat zone. The applicant's DA Form 664, completed at the time of separation, notes a "hurt knee," but his separation physical found no physical defects, and there is no indication that the injury was sustained due to hostile action. In addition, the applicant's name does not appear on the Vietnam Casualty Roster, a key source used to verify eligibility for the Purple Heart. In the absence of sufficient documentation, verified orders, or evidence of qualifying combat-related actions or injuries, the Board found no basis to amend the applicant's military records to reflect award of the Purple Heart or Bronze Star Medal.

3. However, during deliberation, the Board determined the applicant's service record did not reflect he was awarded the Army Good Conduct Medal (1st Award) and his record shows he consistently received "excellent" conduct and efficiency ratings throughout his service for the period of 17 June 1970 to 22 March 1972. Based on this the Board granted partial relief for correction of the applicant's record to show award of the Army Good Conduct Medal.

4. 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:

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

BOARD DETERMINATION/RECOMMENDATION:

1. In addition to the administrative notes annotated by the Analyst of Record (below the signature), 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 him the Army Good Conduct Medal (1st Award) for exemplary service from 17 June 1970 to 22 March 1972 and adding the medal to his DD Form 214 for the period ending 22 March 1972.

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 and Bronze Star Medal.

X //SIGNED//

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):

Amend the applicant's DD Form 214, ending 22 March 1972, by deleting the entry in item 12 and removing the Vietnam Service Medal from item 24; Then add the following:

- a. Item 12: "379th TRANS CO USARV."
- b. Item 24:
 - Vietnam Service Medal with two bronze service stars
 - Republic of Vietnam Gallantry Cross with Palm Unit Citation

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, currently in effect, prescribes policies and procedures for military awards.

- a. Paragraph 2-7 (Purple Hearts).

(1) The Purple Heart is awarded in the name of the President of the United States to any member of an Armed Force of the United States under the jurisdiction of the Secretary of the Army who, after 5 April 1917, has been wounded, killed, or who has died or may hereafter die of wounds received, under any of the following circumstances:

- 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 the result of an act of any such enemy or opposing Armed Forces
- As the result of an act of any hostile foreign force

(2) To qualify for the Purple Heart, the wound must have been of such severity that it required treatment, not merely examination, by a medical officer.

- 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

- 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.
- Additionally, the wound's treatment must be documented in the Soldier's medical records

b. Paragraph 3-16 (Bronze Star Medal). The Bronze Star Medal is awarded in time of war for heroism and for meritorious achievement or service, not involving participation in aerial flight, in connection with military operations against an armed enemy, or while engaged in military operations involving conflict with an opposing armed force in which the United States is not a belligerent party. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

3. AR 672-5-1 (Awards), in effect at the time, prescribed policies and procedures for military awards. In chapter 1 (Medals), section III (Good Conduct Medal), it 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 the first award only, commanders could award the Army Good Conduct Medal, upon termination of the Soldier's service on or after 27 June 1950, if he or she had served less than 3 years but more than 1 year. Additionally, the Soldier had to have had all "Excellent" conduct and efficiency ratings and no court-martial convictions.

4. AR 15-185 (Army Board for Correction of Military Records (ABCMR)), currently in effect, states:

a. Paragraph 2-2 (ABCMR Functions). The ABCMR decides cases on the evidence of record; it is not an investigative body.

b Paragraph 2-9 (Burden of Proof) states:

(1) The ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary).

(2) The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

//NOTHING FOLLOWS//