

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 December 2024

DOCKET NUMBER: AR20240003995

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

- Purple Heart
- Silver Star
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement

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 should have a Purple Heart and a Silver Star in his record. He departed the Army "a month later," with no medals and believes the job was forgotten. He is 100% disabled because of the event due to post-traumatic stress disorder, feet, back, and neck pain.

a. On 26 March, he woke up with sirens blaring and could hear mortars hitting the base camp of the 9th Infantry. He was with Detachment Number 14, Signal Corp. He asked the other Soldiers had anyone seen [REDACTED] and was told no one had seen him. He knew [REDACTED] slept soundly and although he was discouraged from leaving the bunker, he had to go get him. He found [REDACTED] asleep, he woke him, and as they were heading for the door, the ammo dump blew up. He was thrown through the door almost 40 feet into the sand and [REDACTED] landed partially on him. They got into the bunker and he did not realize he was bleeding all over his body.

b. He was told to seek first aid, but he patched himself up. He learned in basic training that unless you are missing limbs, you leave first aid to the “bad cases.” He must have suffered from a concussion because he could not recall where it was. The following day he threw his fatigues away and was informed by his Sergeant that he would be receiving a Silver Star and Purple Heart for getting [REDACTED] to the bunker. He received neither and departed the day after he found a mortar round on the ground where [REDACTED] slept in April 1969. He believes the Lord was watching over them.

3. A review of the applicant’s service record shows:

a. He was inducted into the Army of the United States on 22 September 1967.

b. He served in Vietnam from 29 May 1968 to 24 April 1969. His DA Form 20 (Enlisted Qualification Record) shows in:

- item 38 (Record of Assignments):
 - 2 June 1968, M/Wave Radio Repairman, 327th Signal Company, U.S. Army Pacific (USARPAC)
 - 13 January 1969, M/Wave Radio Repairman, Attached to Company B/52nd, 39th Signal Battalion, USARPAC
 - 25 April 1969, Casual, Enroute to Continental U.S.
- item 40 (Wounds): no entry
- item 41 (Awards and Decorations): National Defense Service Medal, Vietnam Service Medal, Republic of Vietnam Campaign Medal with Device 1960, Overseas Service Bars (2)

c. Special Orders #311 dated 7 November 1967 awarded the applicant the Marksman Marksmanship Qualification Badge with Rifle Bar (M14).

d. He was honorably released from active duty on 28 April 1969. His DD Form 214 shows he completed 1 year, 7 months, and 7 days of active service with 10 months and 29 days of foreign service. It also shows he was awarded or authorized:

- National Defense Service Medal,
- Vietnam Service Medal
- Vietnam Campaign Medal

e. 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.

f. 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 and/or Silver Star pertaining to the applicant.

4. A review of the applicant's record confirms he is eligible for awards and campaign credits that are not recorded on his DD Form 214. These awards will be added to his DD Form 214 as administrative corrections and will not be considered by the Board.

5. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

6. By regulation (AR 600-8-22):

a. 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

b. The Silver Star is awarded for gallantry in action against the enemy. The required gallantry (spirited and conspicuous acts of heroism and courage) must have been performed with marked distinction. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

7. 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.

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 review based on law, policy, and regulation.

a. Purple Heart. Deny. The Board determined to be awarded the Purple Heart, the regulatory guidance requires all elements of the award criteria to be met; there must be proof a wound was incurred as a result of enemy action, that the wound required treatment by medical personnel, and that the medical personnel made such treatment a matter of official record. The Board did not find documentary evidence that clearly or explicitly shows criteria for award of the Purple Heart. Based on the evidence, the Board determined the applicant does not meet the criteria for award of the Purple Heart.

b. Silver Star. Deny. The Board the applicant did not meet criteria for award of the Silver Star as there was no documentation to support gallantry in action against the enemy.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

3. Prior to closing the discussion, the Board reviewed and concurred with the administrative notes below.

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.

3/26/2025

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 service records show he is authorized additional awards not annotated on his DD Form 214 for the service period ending 10 June 1970. As a result, correct his DD Form 214 to show:

- Overseas Service Bars (2)
- Marksman Marksmanship Qualification Badge with Rifle Bar (M-14)
- 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 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.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

3. Army Regulation 600-8-22 (Military Awards) provides Army policy, criteria, and administrative instructions concerning individual military decorations.

a. A bronze service star is authorized to denote participation in each designated campaign.

b. 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

c. The Silver Star is awarded for gallantry in action against the enemy. The required gallantry (spirited and conspicuous acts of heroism and courage) must have been performed with marked distinction. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

4. 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.

5. 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//