

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 December 2024

DOCKET NUMBER: AR20240004113

APPLICANT REQUESTS: reversal of the U.S. Army Human Resources Command (AHRC) disapproval of his request to be awarded the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 1610 (Request and Authorization for Temporary Duty (TDY) Travel of Department of Defense Personnel), 25 July 2018
- DD Form 1610, 26 September 2018
- SF 600 (Chronological Record of Medical Care), 24 January 2019
- Medical documents, 12 June 2019 - 20 August 2020
- DA Form 2823 (Sworn Statement), 1 January 2019
- Enlisted Record Brief (ERB), 11 December 2019
- DA Form 2823, 14 January 2020
- Battalion Surgeon Memorandum for Record (MFR) - Subject: Medical Treatment Summary, 14 April 2020
- Applicant's statement, 9 November 2020.
- AHRC, Chief, Awards and Decorations Branch Memorandum - Subject: Award of the Purple Heart for [Applicant], 24 February 2021
- DA Form 4187 (Personnel Action), 7 September 2021

FACTS:

1. The applicant states:

a. The recommendation for award of the Purple Heart was denied for the following reason, "mTBI [mild traumatic brain injury] that does not result in the 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." Although not originally codified in his SF 600, after sustaining an mTBI from an Improvised Explosive Device (IED) blast he did not participate in combat operations for "36 hours" due to invisible wounds. This correction now reflects in his SF 600 and was part of his original narrative.

b. The Purple Heart is awarded for multiple instances, however, his consideration for the Purple Heart was denied solely based off one criterion. He does however meet the criteria of multiple regarded considerations such as, in accordance with Army Regulation (AR) 600-8-22 (Military Awards), paragraph 2-8I; (a) Referral to neurologist or neuropsychologist to treat the diagnosed mTBI or concussion. He received treatment September 2019 (b) Rehabilitation (such as occupational therapy, physical therapy, and so forth) to treat the mTBI or concussion. He completed his treatment from Intrepid Spirit 2020 (c) Restriction from full duty for a period of greater than 48 hours due to persistent signs, symptoms, or physical finding of impaired brain function on due to the mTBI or concussion. As previously mentioned, he was restricted from conducting combat operations for approximately "36 hours." It is his understanding that any one of these instances listed above would warrant the approval of the Purple Heart.

c. He has worked with his previous unit, 7th Special Forces Group (Airborne) to ensure paperwork was in order to submit for reconsideration, however, due to COVID and permanent change of station to 1st Special Forces Command (Airborne) he was not able to submit within the appropriate time.

2. A review of the applicant's service records show:

a. He enlisted in the Regular Army on 29 December 2004. DD Forms 4 (Enlistment/Reenlistment Document – Armed Forces of the United States) show he reenlisted on 14 June 2009, 16 March 2012, 12 May 2014, and 28 June 2017.

b. On 24 February 2021, by memorandum, the Chief, Awards and Decorations Branch, AHRC, notified the applicant's commander that the applicant's request for award of the Purple Heart for injuries received while deployed in support of Operation Freedom's Sentinel was disapproved. The AHRC official stated:

(1) After a thorough review of the information provided and consultation with the U.S. Army Human Resources Command Office of the Surgeon General, the forwarded recommendation for award of the Purple Heart does not meet the statutory guidance outlined in AR 600-8-22, paragraph 2-8g.(13), "mTBI that does not 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".

(2) If the applicant believes this determination to be unjust, he has the right to appeal to the Army Board for Correction of Military Records (ABCMR), the highest appellate authority on personnel matters.

c. The applicant is currently serving on active duty.

3. In support of his request the applicant provides:

a. DD Form 1610 dated 25 July 2018, which shows he was deployed on or about 28 August 2018 in a temporary change of station/TDY status for approximately 34 days from Crestview, FL, to Qatar and military bases not in Kabul, and return to Crestview, FL.

b. DD Form 1610 dated 26 September 2018, which shows he was TDY on or about 1 October 2018, for 152 days from military bases not in Kabul, Afghanistan to military bases not in Kabul, and return to Crestview, FL.

c. SF 600 dated 24 January 2019, which shows he was treated for symptoms of mTBI as a result of an IED blast during combat in Helmand, Afghanistan on 23 January 2019. He complained of headache, malaise and memory loss following IED blast. He presented normal vitals and was fully alert. Neurological examination revealed no gross deficits. The applicant was not medically evacuated from mission at that time but would be monitored. He was instructed by "18D" and Detachment Operations Sergeant to remain in truck and not conduct operations for a minimum of 48 hours or until the operation was completed and the unit had returned to base. Follow up exam would be conducted by higher level of care upon return to base.

d. Medical documents during the period of 12 June 2019 - 20 August 2020, which shows reasons for appointments, appointment comments, treatment(s), diagnosis, and prognosis. His reason for the visits was TBI.

e. DA Form 2823 dated 14 January 2020, wherein, Chief Warrant Officer Two R_ stated, on 23 January 2019, while on dismounted patrol in Sangin District, Helmand Province, Afghanistan an IED was struck. The IED detonated killing one Afghan Commando immediately and rendering three others in ambulatory condition. He witnessed the applicant doubled over and disoriented, removing dust and debris from his face and shoulders immediately after the explosion. At that time, other Soldiers moved to their location to assist in medical evacuation procedures because the applicant and him were too disoriented to do so.

f. ERB dated 11 December 2019, showing his assignment information, overseas/deployment combat duty, military and civilian education, awards and decorations, and assignment information. The REB shows three tours to Afghanistan between 15 April 2013 and 24 February 2019.

g. DA Form 2823 dated 14 January 2020, wherein, Sergeant First Class M_ stated, on 23 January 2019, while on dismounted patrol in Sangin District, Helmand Province, Afghanistan an IED was struck and denoted. He witnessed the applicant disoriented

and confused as the applicant removed dust and debris from his face and shoulders immediately after the explosion.

h. MFR - Subject: Medical Treatment Summary, dated 14 April 2020, wherein, the Headquarters Support Company, 2nd Battalion, 7th Special Forces Group (Airborne), Battalion Surgeon stated:

(1) The applicant was deployed in support of combat operations in Helmand Province, Afghanistan on 23 January 2019. During the convoy, an IED exploded, killing one other Afghan Commando and injuring three Soldiers. He was directly witnessed to be disoriented and confused following the blast. His immediate post-blast symptoms included headache, malaise, and memory loss. Due to three more days of required operations, the team had to weigh the risks and benefits of medical evacuation. The decision was made to keep him on the convoy; however, his role was limited, and he predominantly rested within the vehicle.

(2) Upon redeployment, the applicant continued to have difficulty with word-finding, concentration, short-term memory, and facial twitching. He was referred to the Invisible Wounds Clinic, which is Eglin Air Force Base's local multi-disciplinary concussion center, and he has seen them numerous times throughout 2019.

(3) The applicant was diagnosed with mTBI from IED blast, and the applicant had returned to duty. The Battalion Surgeon recommended that the applicant's injury qualifies him for the Purple Heart per AR 600-8-22, Chapter 2-8b. (1 and 4) and Chapter 2-8j(l)(a), as his TBI required multi-disciplinary, physician treatment for months following redeployment.

i. Applicant's statement dated 9 November 2020, wherein, he reiterates, the previously mentioned sworn statements, and outlines the events of the IED that occurred in January 2019.

j. DA Form 4187 dated 7 September 2021, wherein, he requests to be awarded the Purple Heart.

4. The supporting documents can be reviewed in their entirety within the labeled supporting documents provided to the Board.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, and the applicable regulatory guidance, the Board found that relief was not warranted.

2. The Board carefully considered the applicant's contentions, his personnel and medical record, the statements provided and the review of his request by HRC. The Board found that his duty restriction was less than the 48 hours required by the regulation and that he did not meet the additional criteria for award of the Purple Heart. Based on a preponderance of evidence the Board determined that the denial of the requested award by AHRC was not in error or unjust.

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:

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.

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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.

REFERENCES:

1. AR 15–185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the Army Board for Correction of Military Records (ABCMR). In pertinent part, it states that 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. The ABCMR will decide cases based on the evidence of record. It is not an investigative agency.

2. AR 600-8-22 (Military Awards) prescribes Department of the Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. Paragraph 2-8a (Purple Heart) states, while clearly an individual decoration the Purple Heart differs from all other decorations in that an individual is not “recommended” for the decoration; rather, he or she is entitled to it upon meeting specific criteria.

b. Paragraph 2-8b states, 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 (SECARMY) 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

c. Paragraph 2-8c states, to qualify for award of the Purple Heart 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.

d. Paragraph 2-8f states, some examples of enemy-related actions which justify eligibility for the Purple Heart are as follows:

- Injury caused by enemy emplaced trap, mine or other improvised explosive device

- Concussions (and/or mTBI) caused as a result of enemy-generated explosions that result in either loss of consciousness or restriction from full duty due to persistent signs, symptoms, or clinical finding, or impaired brain function for a period greater than 48 hours from the time of the concussive incident

e. Paragraph 2-8g states, some examples of injuries which do not justify eligibility for the Purple Heart are as follows:

- Battle fatigue, neuro-psychosis and post-traumatic stress disorders.
- Hearing loss and tinnitus (for example: ringing in the ears, ruptured tympanic membrane)
- mTBI that does not 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

f. Paragraph 2-8j states, when considering award of the Purple Heart 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.

//NOTHING FOLLOWS//