

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 November 2024

DOCKET NUMBER: AR20240004399

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
- his rank/grade as private first class (PFC)/E-3

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Defense (DoD) Identification Card

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 should reflect his rank as PFC/E-3 and his Purple Heart.
3. The applicant provides his DoD ID card showing his rank at the time of separation as PFC/E-3.
4. A review of the applicant's service record shows:
 - a. On 20 January 1967, he enlisted in the Regular Army. He served in Vietnam from 11 July 1967 to 29 October 1967. DA Form 20 (Enlisted Qualification Record) shows on 26 September 1967 he was wounded on his right shoulder, lower extremities, left upper arm, and abdomen.
 - b. DA Form 2627 (Summarized Record of Proceedings Under Article 15, Uniform Code of Military Justice (UCMJ)) shows on 29 June 1968 he accepted nonjudicial punishment for violating Article 92 failure to obey a lawful order.

c. Unit Order Number 55, dated 15 July 1968 shows he was reduced in rank from specialist (SPC)/E-4 to PFC/E-3 with the authority listed as Article 15, UCMJ.

d. He was honorably released from active duty in the rank of PFC/E-3 on 17 January 1969. He completed 1 year, 11 months, and 28 days of active service. His DD Form 214 shows he was awarded or authorized:

- National Defense Service Medal
- Vietnam Service Medal
- Vietnam Campaign Medal
- Marksman Marksmanship Badge M-14 with Rifle Bar
- Combat Infantryman Badge
- First Class Gunner Badge M-60
- Marksman Marksmanship Badge M-16 with Rifle Bar

e. The Vietnam casualty roster is a listing of Vietnam-era casualties commonly used to verify entitlement to award of the Purple Heart; it lists the applicant's name for an injury sustained on 26 September 1967.

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 pertaining to the applicant.

g. The applicant's record is void of orders awarding him the Purple Heart.

h. The applicant's record is void of documentation that he was recommended for or promoted to SPC/E-4 after his date of reduction on 15 July 1968.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. Purple Heart: Grant. The evidence shows the applicant served in Vietnam from 11 July 1967 to 29 October 1967. He was wounded in action on 26 September 1967. He sustained injuries to his right shoulder, lower extremities, left upper arm, and abdomen. His name is listed on the Vietnam Casualty Roster. Therefore, the Board determined he is entitled to award of the Purple Heart and correction of his DD Form 214 to show it.

b. Grade: Deny. The evidence shows the applicant's unit issued orders to reduce him in rank from specialist four (SP4)/E-4 to PFC/E-3 with the authority listed as Article 15, UCMJ, on 15 July 1968. He held the rank/grade of PFC/E-3 at the time of his separation from active duty. Since the DD Form 214 reflects the active duty rank/grade held by the Soldier at the time of separation, the Board determined the rank/grade shown on his DD Form 214 is not in error or unjust.,

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. In addition to the correction addressed in Administrative Note(s) below, 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 the applicant, the Purple Heart for wounds received in action on 26 September 1967 in Vietnam
- Adding award of the Purple Heart to his DD Form 214

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 the grade of specialist four/E-4.

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 NOTES:

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 17 January 1969. As a result, amend his DD Form 214 to show:

- two bronze service stars to his already awarded Vietnam Service Medal
- 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. U.S. Army Vietnam (USARV) Regulation 672-5-1 (Decorations and Awards), in effect at the time, prescribed policies, responsibilities, and criteria for awards to insure prompt and proper recognition of individuals. The regulation states, in part:

a. The Purple Heart may be awarded to U.S. personnel who are wounded or killed in action as a direct result of enemy action. A wound for which the award is made must have required treatment by a medical officer and records of medical treatment for wounds or injuries received must have been made a matter of official record.

b. Authority to award the Purple Heart was delegated to hospital commanders. Further, it directed that all personnel treated and released within 24 hours would be awarded the Purple Heart by the organization to which the individual was assigned. Personnel requiring hospitalization more than 24 hours or evacuation from Vietnam would be awarded the Purple Heart directly by the hospital commander rendering treatment.

3. AR 635-8 (Separation Processing and Documents) states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. It states:

a. Item 4 (Grade, Rate, or Rank) – Verify that active duty grade or rank and pay grade are accurate at time of separation

b. Item 12i (Effective Date of Pay Grade) – From the most recent promotion document (or reduction instrument) enter the effective date of promotion or reduction to the current pay grade.

//NOTHING FOLLOWS//