

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 December 2024

DOCKET NUMBER: AR20240004453

APPLICANT REQUESTS: reconsideration of his previous request for award of the Purple Heart.

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

- Letter in lieu of a DD Form 149 (Application for Correction of Military Record)
- news article from the Pacific Stars and Stripes, 6 April 1969
- Document titled, "Helicopter CH-47C 67-18523"
- Special Orders 116, Headquarters, 101st Airborne Division, 26 April 1969

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20230004350 on 3 November 2023.

2. The applicant provides new evidence not previously considered by the Board.

3. The applicant states, in effect:

a. He is formally contesting the recent decision to deny his request for award of the Purple Heart for wounds sustained during hostile action in Vietnam in April 1969. He believes there has been a misunderstanding or oversight in evaluating his case. Attached are documents that he believes will further substantiate the circumstances surrounding the hostile action and the wounds he sustained. He understands that his medical triage records are missing from his file, but he wants to emphasize that he should not be penalized for the mishandling of records that may have occurred.

b. He is confident that a comprehensive review of the attached documents will reveal the severity of the wounds he sustained and the direct correlation between those wounds and the hostile action involving a helicopter incident. He believes these records will clearly demonstrate the merit of his case and justification for award of the Purple Heart.

c. He kindly requests the ABCMR carefully review the attached documents and reconsider the decision to deny award of the Purple Heart. He understands the importance of maintaining accurate records, and he appreciates the Board's attention in rectifying any oversight in his case.

3. On 25 October 1967, the applicant enlisted in the Regular Army for 3 years. He completed his training requirements, and he was awarded military occupational specialty (MOS) 67U (CH 47 Helicopter Repairman).

4. His DA Form 20 (Enlisted Qualification Record) contains the following entries and information:

a. block 31 (Foreign Service) shows he served in Vietnam from 22 May 1968 to 27 July 1970.

b. block 38 (Record of Assignment) shows he was assigned as a as a helicopter mechanic to the following units:

- 200th Assault Support Helicopter Company from 26 May 1968 to 31 July 1968
- Company A, 159th Assault Support Helicopter Battalion from 1 August 1968 to 23 July 1970

c. block 40 (Wounds) does not contain an entry.

d. block 41 (Awards and Decorations) does not list the Purple Heart.

5. Two Standard Forms (SF) 600 (Health Record – Chronological Record of Medical Care) show:

a. An entry dated 3 April 1969 showing the applicant was treated for a "burned left wrist yesterday in helicopter accident..." and a detailed description of the treatment given.

b. He had follow-up treatment on 4, 5, and 6 April 1969. On 4 and 5 April 1969, the dressing was changed on the wound/injury.

6. The applicant provides:

a. A News Article from the Pacific Stars and Stripes, dated Sunday, 6 April 1969. This article was previously submitted to the Board and was reviewed with his previous case. The news article provided various evidence about the CH-47C Helicopter accident, a description of the helicopter, fatalities, and wounds.

b. Special Orders 116, Headquarters, 101st Airborne Division, dated 26 April 1969, are partially illegible; however, the purpose of this order was to investigate the facts and circumstances involving the helicopter crash. The applicant's name is listed on the order as the crew chief.

7. A DA Form 1811 (Physical and Mental Status on Release from Active Duty), shows the applicant was examined prior to separation on 27 July 1970, and he was found qualified for separation. This form also lists his levels of functional capacity in six factors known as PULHES, as follows:

- P–Physical Capacity or Stamina–1
- U–Upper Extremities–1
- L–Lower Extremities–1
- H–Hearing and Ears–1
- E–Eyes–1
- S–Psychiatric–1

8. An SF 88 (Report of Medical Examination), dated 27 July 1970, notes his health had not changed since his last physical. His condition was good, and his health records were received. He was determined to be qualified for separation. Neither the SF 88 nor the DA Form 1811 reference the helicopter accident nor any burns.

9. On 27 July 1970, the applicant was honorably released from active duty and was transferred to the U.S. Army Reserve to complete his remaining military service obligation. His DD Form 214 and subsequently issued DD Form 215 (Correction to DD Form 214) show he completed 2 years, 9 months, and 3 days of his 3-year enlistment contract, with 2 years, 2 months, and 7 days served in Vietnam. Block 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) lists his awards as the:

- National Defense Service Medal
- Republic of Vietnam Campaign Medal with Device (1960)
- four Overseas Service Bars
- Army Commendation Medal
- Air Medal
- Expert Marksmanship Qualification Badge with Rifle Bar (M-14)
- Valorous Unit Award
- Army Good Conduct Medal
- Vietnam Service Medal with one silver service star and two bronze service stars
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Civil Actions Honor Medal First Class Unit Citation

10. The Vietnam Casualty Roster is a listing of Vietnam-era casualties commonly used to verify the entitlement to the award of the Purple Heart. The applicant's name is not listed on this roster.

11. 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 General Orders for the Purple Heart pertaining to the applicant.

12. The applicant provides a document titled, "Helicopter CH-47C 67-18523," which contains details about a helicopter crash in Vietnam on 2 April 1969, which refers to the helicopter crash as an accident.

13. The ABCMR previously considered and denied the applicant's request for award of the Purple Heart, in ABCMR Docket Number AR20230004350, on 3 November 2023.

14. The applicant's submissions were provided to the Board in their entirety.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted.

2. While the evidence confirms the applicant was injured during his service in Vietnam, the Board found no evidence indicating the injury was the result of hostile action, which is a requirement for award of the Purple Heart. All available documentation regarding the helicopter crash indicates the incident was an accident. Based on a preponderance of the evidence, the Board determined the applicant's injury did not meet the criteria for 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:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined that the overall merits of this case are insufficient as a basis to amend the decision of the ABCMR set forth in Docket Number AR20230004350 on 3 November 2023.

12/8/2024

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.

REFERENCES:

1. Title 10, United States 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 considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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.
3. AR 672-5-1 (Military Awards), in effect at the time, prescribed policies and procedures for military awards. It stated the Purple Heart 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. Substantiating evidence had to be provided verifying that the wound resulted from hostile action, the wound required treatment by medical personnel, and the medical treatment received had been made a matter of official record.

4. Army Regulation 600-8-22, currently in effect, prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. The Purple Heart is awarded 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.

b. A wound is defined as an injury to any part of the body from an outside force or agent sustained under one or more of the conditions listed above. A physical lesion is not required. However, the wound for which the award is made must have required treatment, not merely examination, by a medical officer. Additionally, treatment of the wound will be documented in the Service member's medical and/or health record. Award of the Purple Heart may be made for wounds treated by a medical professional other than a medical officer, provided a medical officer includes a statement in the Service member's medical record that the extent of the wounds was such that they would have required treatment by a medical officer if one had been available to treat them.

c. 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/wound. The fact that the proposed recipient was participating in direct or indirect combat operations is a necessary prerequisite but is not the sole justification for award.

//NOTHING FOLLOWS//