

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 December 2024

DOCKET NUMBER: AR20240004465

APPLICANT REQUESTS: in effect,

- issuance of a DD Form 214 (Certificate of Release or Discharge from Active Duty) reflective of his honorable service from 12 January 1968 to 18 July 1969
- awards and medals earned during the service period
- award of the Purple Heart

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

- DD Form 149 (Application for Correction of Military Record)
- five-DA Form 2139 (Pay Voucher), undated
- Memorandum, subject: Enlisted Man Without Funds, 16 July 1969
- USAFSA Form 34-35 (Affidavit of Financial Status Submitted for Consideration in Connection with Indebtedness to the U.S.), 14 April 1975
- Three-USAFAC Form 33-25 (Affidavit of Financial Status Submitted for Consideration in Connection with Indebtedness to the U.S.), 3 April, 14 April 1975 and 12 December 1975
- Letter, U.S. Army Finance and Accounting Center, 4 December 1975
- Letter, Applicant, undated
- Letter, The Coalition for Wounded and Disabled Veterans, [REDACTED], 5 December 2023
- Standard Form 180 (Request Pertaining to Military Records), 9 February 2024
- Email, 14 March 2024

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:

a. He was not given a DD Form 214 which would show and verify his date of discharge and honorable service. Although his medals are listed in his service records, he was not issued any. He should have been awarded the Purple Heart for his injury in Vietnam. He suffers with pain in his arm, from a gunshot wound during combat service, and due to shrapnel fragments. He has evidence from [REDACTED] Health Services.

b. After combat but while still in Vietnam, he suffered with post-traumatic stress disorder (PTSD), anxiety, depression, sleep related problems, and battle fatigue. There was no way for him to receive treatment in the battlefield. Records were not completed by leadership due to injustice such as restrictions, racism and time of war.

c. He received two Article 15's while in Vietnam. He was under a lot of pressure due to the fighting and killing. His leadership wanted him to do dangerous things, because of his race that would cause injury to himself. He was never absent without leave (AWOL), received a bad conduct discharge, other than honorable discharge or a court martial. He was promoted to sergeant while in Vietnam and received various medals and awards during his active-duty service. He requests an expedited review due to the injustice in service and with various agencies.

3. The applicant provides:

a. Five DA Form 2139 (Pay Voucher), undated, that shows:

(1) The applicant held the basic pay grade of private/E-1; private/E-2; and specialist/E-4.

(2) The applicant's organization and address at the U.S. Army Recruiting Station, in Fort Benning, GA, and Fort Jackson, S.C.

(3) In the remarks section the applicant left the continental U.S. (CONUS) on 12 June 1968, and arrived Vietnam on 13 June 1968.

b. A Memorandum, issued by Headquarters, U.S. Army School Training Centers, 16 July 1969, that show the applicant reported to Fort Jackson, S.C without funds.

c. A letter issued by U.S. Army Finance and Accounting Center, 4 December 1975, that show the installment payments on the applicant's indebtedness to the U.S. were not current.

d. A USAFSA Form 34-35 dated 3 April 1975, and three-USAFSA Form 33-25 dated 3 April, 14 April, and 12 December 1975 that show the applicant agreeing to pay \$10 to \$20 a month.

e. The applicant provides a letter, responding to the U.S. Army Finance and Accounting Center letter of indebtedness informing them that he will be late with his payment.

f. A letter by [REDACTED] of [REDACTED] Veterans, 5 December 2023, which shows in part:

(1) The [applicant] contacted them, in regard to a review of his active-duty service and treatment records. [Applicant] has a diagnosis of hypertension, PTSD, depression, recurrent bilateral tinnitus, bilateral hearing loss, bilateral arm condition with pain and shrapnel in his arm when he was shot in Vietnam, bilateral leg conditions with pain, skin condition, chronic low back condition with pain, and headaches.

(2) The [applicant] stated he was drafted into the service. His available service records show he served in the U.S. Army from 12 January 1968 to 5 June 1969 with service in Vietnam from June 1968 to May 1969. He also stated that he held the military occupational specialty (MOS) 11B (Infantryman) and he jumped out of aircrafts.

(3) During the [applicant's] service he received two Article 15's. His records show he was assigned to Fort Benning, GA, and Vietnam. Fort Jackson, S.C. appears to be his last assigned duty station, this is where he received his last payments, according to his leave and earning statement. He stated that he was released, the leaders thanked him for his service, and he was free to go; this is all that he can remember.

(4) The [applicant] service records show his meritorious achievement, and his award of the [bronze service star], Air Medal, Republic of Vietnam Campaign Medal with Device (1960), and the Combat Infantryman Badge. The evidence clearly shows the Veteran's character is of an honorable discharge, there is no other evidence to the contrary.

g. A Standard Form 180 dated 9 February 2024, that shows the applicant's request for a DD Form 214 and his Official Military Personnel File. He states he served in the U.S. Army from 12 January 1968 to 18 July 1969, under service number [REDACTED].

h. The applicant forwarded an email requesting an update to his military upgrade, character of determination, and correction of military records. He stated that he attached a DA Form 1569 dated 9 February 2024, completed by [REDACTED] Unfortunately, the document was not a part of the applicant's packet, nor was it attached to the email.

4. Review of the applicant's record shows:

a. The applicant was inducted into the Army of the U.S. (AUS) on 12 January 1968.

b. Special Orders Number 9, issued by Armed Forces Examining and Entrance Station, 12 January 1968, shows after the applicant's induction into the AUS, he was assigned to U.S Army Reception Station, in Fort Benning, GA

c. Special Court-Martial Order Number 16, 26 February 1969, shows a court-martial convened on 23 February 1969. The applicant was arraigned and tried and charged with violation of the Uniform Code of Military Justice (UCMJ), Article 134. In that he did at Lai Khe, in Vietnam or about 16 February 1969, wrongfully communicate to First Lieutenant [REDACTED] a threat to throw a fragmentation grenade in his room. The applicant was found not guilty.

d. General Orders Number 2598, issued by Headquarters, 1st Infantry Division, 10 April 1969, awarded the applicant the Air Medal, for meritorious achievement while participating in aerial flight. The applicant was assigned to Company D, 1st Battalion, 26th Infantry. His date of action was from 2 July 1968 to 31 October 1968 (Vietnam Counteroffensive, Phase V).

e. On 13 April 1969, he accepted nonjudicial punishment (NJP) under Article 15, UCMJ, for failure to go at the time prescribed to his appointed place of duty on 22 March 1969 at Lai Khe Basecamp, Vietnam. His punishment consisted of forfeiture of \$25.00 pay for one month.

f. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the awards received by units serving in Vietnam. This pamphlet shows the unit to which the applicant was assigned was cited for award of:

(1) The Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period 12 July 1965 to 16 October 1968, Department of the Army General Order (DAGO) Number 21, 1969.

(2) Republic of Vietnam Civil Actions Honor Medal, First Class for the period October 1965 to 7 April 1970, DAGO 53, 1970.

g. The available records are void of a DA Form 20 (Enlisted Qualification Record), separation packet or other evidence that provides the specific circumstances surrounding the applicant's separation, the reason, separation authority, or the characterization of service.

h. His records are void of orders showing his entitlement to the Combat Infantryman Badge.

i. 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 Military Awards Branch, failed to reveal any orders for the Purple Heart pertaining to the applicant.

j. The applicant's name is not shown on the Department of the Army Office of the Adjutant General Casualty Division Casualty Reference Name Listing for the period 1 January 1961 through 30 June 1973, a battle and non-battle listing of Soldiers who were killed, wounded, sick, captured, or missing during their service in Vietnam.

5. The ABCMR corrects records; the Board does not issue medals or badges. Any questions or concerns regarding replacement medals and badges should be referred to the appropriate agency. Requests for the issuance or replacement of military service medals, decorations, awards, badges, and corresponding accouterments should be directed to the National Personnel Records Center who will verify the awards to which a veteran is entitled and forward the request with the verification to the appropriate service department for issuance of the medals. Written requests with appropriate supporting evidence may be addressed to the National Personnel Records Center, 1 Archives Drive, St. Louis, MO 63138 or online at [REDACTED]

6. By regulation (AR 635-5), the purpose of a separation document is to provide the individual with documentary evidence of his/her military service. It is important that information entered thereon is complete and accurate. A DD Form 214 will not be issued to replace record copies or DD Forms 214 lost by Soldiers. This regulation further states that if no DD Form 214 is available, a statement of service or transcript of military record may be issued.

7. By regulation (AR 15-185), the ABCMR is not an investigative authority. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

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 the applicant was inducted into the Army of the United States (AUS) on 12 January 1968 with assignment to Company D, 1st Battalion, 26th Infantry, 1st Infantry Division, and participation in aerial flight operations in Vietnam, as evidenced by General Orders Number 2598, dated 10 April 1969, awarding him the Air Medal for meritorious achievement during the Vietnam Counteroffensive, Phase V.
2. The Board found sufficient evidence to support a relief for award of the Combat Infantryman Badge (CIB), based on the applicant's assignment to an infantry unit engaged in active ground combat during a qualifying campaign period. Although no orders for the CIB were located, the applicant's unit history and operational context support the award under Army Regulation 600-8-22, paragraph 8-6. Additionally, the Board noted the applicant is authorized additional awards received by units serving in Vietnam, the Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period 12 July 1965 to 16 October 1968, Department of the Army General Order (DAGO) Number 21, 1969 and Republic of Vietnam Civil Actions Honor Medal, First Class for the period October 1965 to 7 April 1970, DAGO 53, 1970 which are not annotated in his records.
3. During deliberation, the Board found the applicant's records are void of a DD Form 214, regulatory guidance under AR 635-5 which has been replaced by AR 635-8, stipulating that DD Forms 214 are not recreated if lost or destroyed. In lieu of this, the Board authorizes the issuance of a National Archives (NA) Form 13038-Certification of Military Service to document the applicant's verified honorable service history for the period 12 January 1968 to 18 July 1969.
4. However, the Board determined there is insufficient evidence to support the applicant contentions for award of the Purple Heart (PH). Regulatory guidance requires substantiating medical documentation from a medical officer or treatment facility at the time of the injury. The available records, including a review of the Awards and Decorations Computer-Assisted Retrieval System and the Department of the Army Casualty Reference Name Listing, do not contain any evidence of wounds sustained in combat or treatment by medical personnel. Therefore, the Board denies the request for award of the Purple Heart.

5. The Board agreed, partial relief is warranted by authorizing the issuance of a military statement of service and award of the Combat Infantryman Badge, Republic of Vietnam Gallantry Cross with Palm Unit Citation and the Republic of Vietnam Civil Actions Honor Medal, First Class while denying the request for the Purple Heart due to lack of supporting documentation.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. 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 show

- issuance of a National Archives (NA) Form 13038- Certification of Military Service to document the applicant's verified honorable service for the period 12 January 1968 to 18 July 1969.

and award of the:

- Combat Infantryman Badge
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Civil Actions Honor Medal, First Class

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.

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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. 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 635-5 (Separation Documents), in effect at the time, prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army.

a. It established standardized policy for preparation of the DD Form 214 (Certificate of Release or Discharge from Active Duty). The purpose of a separation document is to provide the individual with documentary evidence of his/her military service. It is important that information entered thereon is complete and accurate. The following documents will be used as a basis for preparation of the DD Form 214: Enlisted Record Brief; Officer Record Brief; separation approval authority documentation, if applicable; separation orders; and any other document authorized for filing in the Official Military Personnel File.

b. A DD Form 214 will not be issued to replace record copies or DD Forms 214 lost by Soldiers. This regulation further states that if no DD Form 214 is available, a statement of service or transcript of military record may be issued.

3. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides that the ABCMR is not an investigative authority. It 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.

4. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. The Purple Heart is awarded for a wound 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 a medical officer, and the medical treatment must have been made a matter of official record. 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. A Purple Heart is authorized for the first wound suffered under conditions indicated above; an oak leaf cluster is awarded to be worn on the medal or ribbon for each subsequent award. Not more than one award will be made for more than one wound or injury received at the same instant or from the same missile, force, explosion, or agent.

b. A bronze service star is worn on the appropriate service ribbon, to include the Vietnam Service Medal, for each credited campaign. A silver service star is authorized in lieu of five bronze service stars.

c. There are basically three requirements for award of the Combat Infantryman Badge. The Soldier must be an infantryman satisfactorily performing infantry duties, he

must be assigned to an infantry unit during such time as the unit is engaged in active ground combat, and he must actively participate in such ground combat.

5. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the awards received by units serving in Vietnam. This pamphlet shows the unit to which the applicant was assigned was cited for award of:

a. The Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period 12 July 1965 to 16 October 1968, Department of the Army General Order (DAGO) Number 21, 1969.

b. Republic of Vietnam Civil Actions Honor Medal First Class for the period October 1965 to 7 April 1970, DAGO 53, 1970.

6. U.S. Army Vietnam (USARV) Regulation 672-5-1 (Decorations and Awards), prescribed policies, responsibilities, and criteria for awards in order to insure prompt and proper recognition of individuals. The regulation stated:

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.

b. 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.

c. 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 in excess of 24 hours or evacuation from Vietnam would be awarded the Purple Heart directly by the hospital commander rendering treatment.

//NOTHING FOLLOWS//