

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 December 2024

DOCKET NUMBER: AR20240004473

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
- personal appearance before the Board by video or telephone

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

- DD Form 149 (Application for Correction of Military Record)
- Standard Form 502 (Narrative Summary), 3 October 1967
- DD Form 214, 29 November 1968
- Department of Veterans Affairs (VA), Outpatient Clinic, [REDACTED] Special Ear Examination, 26 January 1970
- VA Rating Decision, 16 February 1970

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 was hit by fragment while serving in Vietnam.
3. The applicant's record contains sufficient evidence to administratively correct his DD Form 214, without action by the Board, to add additional unit awards and a marksmanship badge. These administrative corrections will be further addressed in the Administrative Notes portion of these proceedings.
4. The applicant was inducted into the Army of the United States on 30 November 1966. He held military occupational specialty 11B (Light Weapons Infantryman).

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

a. Item 29 (Qualification in Arms) shows he qualified as a sharpshooter with the M-14 rifle on 26 January 1967.

b. Items 31 (Foreign Service) and 38 (Record of Assignments) shows he received all excellent conduct and efficiency ratings and that he served in Vietnam from 11 May 1967 to 8 May 1968. These items also show, while in Vietnam, he was assigned to Company B, 1st Battalion, 8th Infantry, 4th Infantry Division from 15 September 1967 to 7 May 1968, in military occupational specialty (MOS) 11B.

c. Item 40 (Wounds) includes no annotations.

d. Item 41 (Awards and Decorations) does not reflect the Purple Heart; it lists the -

- National Defense Service Medal
- Vietnam Service Medal
- Combat Infantryman Badge
- Vietnam Campaign Medal
- 2 Overseas Service Bars
- Sharpshooter Marksmanship Qualification Badge Rifle Bar

e. There is no entry on the DA Form 20 showing award of the Purple Heart.

6. The applicant provides a Standard Form 503 (Narrative Summary), dated 19 September 1967, which reads, he "Hit L[eft] ant[erior] leg with blunt end of machete...". Unfortunately, the remainder of the document is illegible.

7. Standard Form 88 (Report of Medical Examination) showing he received an expiration term of service (ETS) physical examination showing he was found qualified for ETS. 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—3
- E—Eyes—1
- S—Psychiatric—1

8. A DA Form 3082-R (Statement of Medical Examination) and DA Form 1811 (Physical and Mental Status on Release from Active Service), dated 29 November 1968, show:

a. he received a separation medical examination 3 days before his separation; he reported no change in his medical condition since his examination.

b. His physical condition, on 29 November 1968, was such that he was considered physically qualified for separation or for reenlistment without reexamination, if he reenlisted in 180 days and stated he had not acquired new diseases or injuries during the interval period when not a member of the military service.

9. On 29 November 1968, he was honorably released from active duty and transferred to the United States Army Reserve. His DD Form 214 does not list the Purple Heart; however, it does list the following awards:

- National Defense Service Medal
- Vietnam Service Medal with bronze service star
- Vietnam Campaign Medal with 1960 Device
- Combat Infantryman Badge.

10. The applicant's name is not listed on the Republic of Vietnam Casualty Roster.

11. A review by U.S. Army Human Resources Command (HRC) 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 Awards and Decorations Branch of HRC, failed to reveal orders awarding him the Purple Heart.

12. The applicant provided a:

a. VA Outpatient Clinic, Special Ear Examination, dated 26 January 1970, showing a rocket hit the side of the bunker he was in. He had no history of otitis media, no tenderness, no dizzy spells, and no family history of being hard of hearing. He received the following diagnosis: "Hearing loss, bilateral, sensori-neural, mild. His diagnosis was confirmed by audio."

b. VA Rating Decision, dated 16 February 1970, showing he claimed, "SC for shell fragment wound (SFW), left leg, incurred in September 1967." "SMR show 9-19-67, hit left anterior leg with blunt end of machete, two lacerations." This rating also shows:

(1) A special orthopedic examination found he suffered a machete wound of the left leg on 15 September 1967. He was hospitalized for 60 days. When the weather got cold, it was tender.

(2) He suffered a shell fragment wound, on 24 March 1968, right forearm, the shrapnel was removed, the scar healed, and he had no complaints. No other orthopedic complaints.

(3) He has a 0 percent service-connected rating for scar residual, machete wound, left leg, and a 0 percent rating for hearing loss, bilateral, sensori-neural.

(4) The orthopedic examination was within normal limits. All joints showed full range of motion. No evidence of muscle atrophy or spasticity. No redness or edema of any of the joints.

13. His submissions were provided to the Board in their entirety.

14. The Board may consider the applicant's entitlement to the Good Conduct Medal and Purple Heart, as there is no evidence in his record, such as court-martial convictions, absence without leave, or any other documentation that would qualify him for award of the Army Good Conduct Medal (1st Award).

#### BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation failing to show the applicant incurred injuries as a result of combat operations (No injuries on the DA Form 20 and/or no entries in the Vietnam Casualty Roster), the Board concluded there was insufficient evidence of an error or injustice warranting awarding and adding 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:

1. 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.
2. Prior to closing the case, the Board noted the administrative notes below and recommended those changes also be completed to more accurately reflect the military service of the applicant.

3/17/2025

X \_\_\_\_\_

CHAIRPERSON

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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 record found evidence sufficient to amend his DD Form 214 for the period ending 29 November 1968 by adding deleting the Vietnam Service Medal with bronze service star and adding the:

- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-14)
- Vietnam Service Medal with 4 bronze service stars
- Presidential Unit Citation
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Civil Actions Honor Medal First Class 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. Army Regulation 600-8-22 (Military Awards) provides:

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

b. The Good Conduct Medal is awarded to individuals who distinguish themselves by their conduct, efficiency, and fidelity during a qualifying period of active-duty enlisted service. This period is 3 years except in those cases when the period for the first award ends with the termination of a period of Federal military service. Although there is no automatic entitlement to the Good Conduct Medal, disqualification must be justified. Current practice requires that the commander provide written notice of nonfavorable consideration and permits the individual to respond.

c. The Vietnam Service Medal is awarded to all members of the Armed Forces of the United States for qualifying service in Vietnam after 3 July 1965 through 28 March 1973. Qualifying service included attachment to or assignment for 1 or more days with an organization participating in or directly supporting military operations. Qualifying service also included temporary duty for 30 consecutive days or 60 nonconsecutive days in Vietnam or contiguous areas, except that the time limit may be waived for personnel participating in actual combat operations. This same regulation states a bronze service star will be awarded for wear on the Vietnam Service Medal for participation in each credited campaign. A silver service star is authorized in lieu of five bronze service stars.

3. Army Regulation 672-5-1 (Awards), in effect at the time, stated the Army Good Conduct Medal was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 27 August 1940; for first award only, 1 year served entirely during the period 7 December 1941 to 2 March 1946; and, for the first award only, upon termination of service on or after 27 June 1950 of less than 3 years but more

than 1 year. The enlisted person must have had all "excellent" conduct and efficiency ratings. Ratings of "Unknown" for portions of the period under consideration were not disqualifying. Service school efficiency ratings based upon academic proficiency of at least "Good" rendered subsequent to 22 November 1955 were not disqualifying. There must have been no convictions by a court-martial. However, there was no right or entitlement to the medal until the immediate commander made a positive recommendation for its award and until the awarding authority announced the award in general orders.

4. DA Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register), shows:

a. The below campaigns occurred during the period of the applicant's service in Vietnam from 11 May 1967 to 8 May 1968:

- Vietnam Counteroffensive, Phase II, 1 July 1966—31 May 1967
- Vietnam Counteroffensive, Phase III, 1 June 1967—29 January 1968.
- TET Counteroffensive, 30 January 1968—1 April 1968
- Vietnam Counteroffensive, Phase IV, 2 April 1968—30 June 1968.

b. Department of the Army General Orders (DAGO) awarded Company B, 1st Battalion, 8th Infantry, was awarded the following unit awards during the period of the applicant's service in that unit from 15 September 1967 to 7 May 1968:

- Presidential Unit Citation, 29 October 1967 - 30 November 1967, DAGO number 38, 1971
- Republic of Vietnam Gallantry Cross with Palm Unit Citation, 1 October 1966 - 28 July 1969, DAGO 3, 1970
- Republic of Vietnam Civil Actions Honor Medal First Class Unit Citation, 1 October 1966 - 31 October 1969, DAGO 53, 1970

//NOTHING FOLLOWS//