

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 December 2024

DOCKET NUMBER: AR20240004491

APPLICANT REQUESTS: the deceased Service Member (SM), her father, be awarded the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- SM's WD AGO Form 53-55 (Enlisted Record and Report of Separation Honorable Discharge)
- SM's Index Record
- SM's Record of Death
- Newspaper Article titled, "Returned from Army Service", undated
- Next of Kin Birth Record
- Next of Kin Driver's License
- SM's handwritten letters, undated

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. Her dad served four years in the Army. He was severely wounded in Germany. He received leg and side injuries requiring amputation of his left leg. He was driving a military truck, trying to get water for his platoon, and grenades blew the back of the military vehicle. He was severely injured and taken to a medical help center and later brought to a hospital in France. When he was able to be transported back to the U.S, he was taken to [REDACTED] Hospital.

b. She believes he should have been awarded the Purple Heart because he was in a military vehicle, doing service for the U.S., he was sent to Germany and while serving

under the U.S. flag, he was severely wounded from the explosion of grenades. The most severe of his injuries was losing his leg. After his return to the U.S., he was a patient at [REDACTED] Hospital and [REDACTED] Hospital. His wounds left him handicapped. He was a patriot, a gentleman, a Soldier, and a private first class.

c. She was also informed that a lot of service records were lost in a fire and hopes this will not deter her request. Her parents divorced in 1947, she was only three years old. She did not have any of the SM's military records for over a period of 40 years. His second wife gave her his documents, along with his Bronze Star Medal and Oak Leaf Cluster. His wife also stated he had other military medals, but since have been lost.

3. The applicant, daughter of the SM, provides:

a. A copy of her record of birth [REDACTED] driver's license.

b. A newspaper article titled "Returned from Army Service," that shows in part the applicant was discharged from the Army at the [REDACTED] Hospital in [REDACTED]. after nearly four years of service. He participated in the battle of Southern France and the Rhineland. While engaged in action in Germany he received shrapnel and hand grenade wounds which caused the amputation of his left leg.

c. The SM's handwritten letters signed "[applicant last name]" that shows in part:

(1) On 21 September 1946, he writes "well buddy here I am at the hospital again I had a forty-day furlough at home and after all my night work I can really use this rest. I am going to get another operation here at this hospital and then be shipped to [REDACTED] [REDACTED] they cannot fit me for a leg here as it is too high up."

(2) Undated, he writes "while I was home and called your mom and told her you were okay and that you came to see me at the hospital in Germany."

(3) Undated, he writes "I will see you guys as soon as you get back here."

(4) On 20 January, he writes "I have been back in the hospital for four days and I miss my wife."

d. A Certificate of Death shows the SM died on [REDACTED]

4. A fire destroyed approximately 18 million service members' records at the National Personnel Records Center in 1973. It is believed the SM's records were lost or destroyed in that fire. However, there were sufficient documents remaining in a reconstructed record, to include those provided by the applicant, for the Board to conduct a fair and impartial review of the SM's case.

5. A review of the SM's record show, in part:

a. He served in the Army of the United States from 30 November 1942 to 7 December 1946, his military occupational specialty was Truck Driver Light (345), at the time of release he was assigned to the Headquarters Company, 2nd Battalion, 399th Infantry, in the rank of private. His WD AGO Form 53-55 also shows in:

(1) item 31 (Veteran's Qualification and Date) – shows in part he was issued Master Gunner Expert Gunner, Marksman Marksmanship Qualification Badge, and the Combat Infantryman Badge.

(2) item 32 (Battles and Campaigns): Rhineland and Central Europe.

(3) item 33 (Decorations and Citations):

- Bronze Star Medal
- Army Good Conduct Medal
- European African and Middle Eastern (EAME) Campaign Medal
- World War II Victory Medal
- American Campaign Medal

(4) item 34 (Wounds Received in Action) is annotated to show None.

(5) item 37 (Current Tour of Active Duty):

- Continental Service, 3 years, 1 months, and 28 days
- Foreign Service, 9 months, and 26 days

(6) item 38 (Service Outside Continental U.S. (CONUS) and Return):

- arrived in the EAME Theater of Operations on 20 October 1944
- departed the EAME Theater of Operations on "Unknown"
- arrived in CONUS on 31 July 1946

(7) item 40 (Reason and Authority for Separation): Certificate of Disability of Discharge Section I, Army Regulation 615-351, 4 November 1944 and 1st Indorsement [REDACTED] Hospital [REDACTED] 4 October 1945.

b. A VA Form 8-606 (Decision – Dependents Pension Board), with a date of rating on 22 July 1955, shows the following:

(1) Evidence establishes service connection for a disease or injury diagnosed amputation of left thigh, disarticulation of left hip necessitated by gangrene, caused by

grenade fragment wounds of left leg and thigh (prosthesis supplied, scars fragment wounds of left elbow and forearm, muscle groups VI and VII tinnitus (all of foregoing are residuals of injuries sustained in explosion of grenade in truck which Veteran was riding (no combat disability).

(2) Cause of Death: marked Visceral Congestion. Not service connected as [stated] above. The cause of death is not shown by the evidence of record to be in any manner attributable to Veteran's service.

6. By regulation, the Purple Heart is awarded for a wound/injury 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 medical personnel
- the medical treatment must have been made a matter of official record

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 Purple Heart requiring a specific event related to combat on a specific date for annotation on the award and the lack of documentary evidence available to show that specific data, the Board concluded there was insufficient evidence of an error or injustice warranting a correction to the FSM's military record.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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|---|---|---|----------------------|
| : | : | : | 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 the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

3/17/2025

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, 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 Army policy, criteria, and administrative instructions concerning individual military decorations.

a. A bronze service star is authorized to denote participation in each designated campaign.

b. The Purple Heart is awarded in the name of the President of the United States to any member of an Armed Force 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, has been wounded or killed, or who has died or may hereafter die after, being wounded:

- 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 U.S. are or have been engaged
- While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the U.S. is not a belligerent party.
- As the result of an act of any such enemy of opposing Armed Forces
- As the result of an act of any hostile foreign force

3. The Purple Heart was established by General George Washington at Newburgh, NY on 7 August 1782 during the Revolutionary War. It was reestablished by the President of the United States per War Department General Orders Number 3 in 1932. It 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. Effective 19 May 1998, award of the Purple Heart is limited to members of the Armed Forces of the United States.

//NOTHING FOLLOWS//