

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 January 2025

DOCKET NUMBER: AR20240004725

APPLICANT REQUESTS: award of the Purple Heart

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge)

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 wounded while serving in Vietnam directly after a firefight. He deserves to be awarded the Purple Heart, as he served his country in an active war zone.
3. The applicant is authorized additional awards not currently listed on his DD Form 214. These awards will be administratively corrected in the "Administrative Notes" section of this document without Board action.
4. The applicant's service record shows:
  - a. He was inducted in the Army of the United States, on 16 April 1969.
  - b. The applicant's DA Form 20 (Enlisted Qualification Record) shows in:
    - item 31 (Foreign Service): 15 September 1969 through 8 January 1970 U.S. Army Pacific (USARPAC)- Vietnam
    - item 33 (Appointments and Reductions): consecutive promotions and does not reflect any reductions in rank

- item 38 (Record of Assignments): C Battery, 2nd Battalion, 17th Artillery USARPAC-Vietnam
- item 38 (continued): he received all excellent ratings in conduct and efficiency
- item 40 (Wounds): no entry for wounds
- item 41 (Awards and Decorations): National Defense Service Medal, Vietnam Campaign Medal with Device (1960), Vietnam Service Medal

c. A Standard Form 600 (Chronological Record of Medical care), 1 December 1969, reflects that a .45 caliber weapon discharged accidentally within a three feet proximity of the applicant. The round entered the applicant's right buttock, traveled superficially, and exited. He sustained a 1.5-centimeter (cm) entry and exit wound.

d. Standard Form 89 (Report of Medical History), 3 February 1971, shows in item 74 (Summary of Defects and Diagnoses): gunshot wound, right buttock.

e. An Unknown form, dated 4 February 1971, shows in:

- item 33 (Have you Ever Had any Illness or Injury Other Than Those Already Noted?): "I received a gunshot wound (right buttock) in Vietnam"
- item 39 (Physicians Summary (item name is illegible beyond this point)): gunshot wound right buttocks

f. His DD Form 214 shows he was honorably released from active duty on 6 May 1971 and was transferred to the U.S. Army Reserve (USAR). He completed 2 years of active service and 3 months, 24 days of foreign service (USARPAC). His grade at the time of discharge was specialist four (SP4)/E-4. He has service in Vietnam from 15 September 1969 through 8 January 1970. He was awarded or authorized:

- National Defense Service Medal
- Vietnam Campaign Medal with Device (1960)
- Vietnam Service Medal with two bronze service stars

4. The applicant's service record does not reflect any disciplinary actions for this period of service. His record does not contain orders awarding him the Army Good Conduct Medal, or any derogatory information that would have disqualified him from receiving such award.

5. The applicant's name is not shown on the Department of the Army Office of the Adjutant General Vietnam 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.

6. 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.

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.

2. The Board carefully considered the applicant's contentions, his record of service, medical records documenting the circumstances related to a gunshot wound as a result of an accidental discharge and the applicable regulatory guidance for award of a Purple Heart. The Board did not find evidence of his name in the Adjutant General Vietnam Casualty Division Casualty Reference Name Listing or the Awards and Decorations Computer-Assisted Retrieval System. There is no wound listed in item 40 of the applicant's DA Form 20. Based on a preponderance of evidence, the Board found that his wound was not a result of enemy actions or that he was engaged with the enemy at the time of the weapon's discharge. As a result, the Board determined that the absence of a Purple Heart in his records was not in error or unjust. The Board found that there was no evidence of misconduct or a Commander's disqualification memorandum in his records and determined that he was eligible for award of the Army Good Conduct Medal for his period of service. The Board concurred with the correction stated in the Administrative Notes below.

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 partial relief. As a result, in addition to the corrections stated in the Administrative Notes that follow, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- awarding him the Army Good Conduct Medal for the period 16 April 1969 to 6 May 1971, and;
- amending the applicant's DD Form 214 for the period ending 6 May 1971 to show AGCM in item 24 (Decorations, Medals, Badges...).

2. The Board further determined that 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.

[REDACTED]

[REDACTED] [REDACTED]

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[REDACTED]

[REDACTED]

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 SM's records shows he is authorized additional awards not listed on his DD Form 214. As a result, amend his DD Form 214 by amending item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) to show he was authorized the following awards: Republic of Vietnam Gallantry Cross with Palm Unit Citation

REFERENCES:

1. Title 10 (Armed Forces), 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 Army Board for Correction of Military Records (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) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. The Purple Heart is awarded in the name of the President of the United States to any member of an Armed Force of the United States under the jurisdiction of the Secretary of the Army, who, after 5 April 1917, has been wounded, killed, or who has died or may hereafter die of wounds received, under any of the following circumstances:

(1) In any action against an enemy of the United States.

(2) In any action with an opposing armed force of a foreign country in which the Armed Forces of the United States are or have been engaged.

(3) While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(4) As the result of an act of any such enemy or opposing Armed Forces.

(5) As the result of an act of any hostile foreign force.

(6) After 7 December 1941, pursuant to Title 10, United States Code, section 1129, as a result of friendly fire provided the member was killed or wounded in action by friendly weapon fire while directly engaged in armed conflict, other than the result of an act of an enemy of the United States, unless (in the case of a wound) the wound is the result of the willful misconduct of the member.

(7) On or after 7 December 1941, to a member who is killed or dies while in captivity as a Prisoner of War under circumstances establishing eligibility for the Prisoner of War Medal, unless compelling evidence is presented that shows the member's death was not the result of enemy action.

b. To qualify for award of the Purple Heart the wound must have been of such severity that it required treatment, not merely examination, by a medical officer. A

wound is defined as an injury to any part of the body from an outside force or agent. A physical lesion is not required.

(1) Treatment of the wound will be documented in the member's medical and/or health record.

(2) Award may be made for a wound treated by a medical professional other than a medical officer provided a medical officer includes a statement in the member's medical record that the severity of the wound was such that it would have required treatment by a medical officer if one had been available to provide treatment.

(3) A medical professional is defined as a civilian physician or a physician extender. Physician extenders include nurse practitioners, physician assistants, and other medical professionals qualified to provide independent treatment (to include Special Forces medics). Medics (such as combat medics – military occupational specialty 68W) are not physician extenders.

(4) A medical officer is defined as a physician with officer rank. The following are medical officers:

- An officer of the medical corps of the Army
- An officer of the medical corps of the U.S. Navy
- An officer in the U.S. Air Force designated as a medical officer in accordance with Title 10, United States Code, section 101

c. Examples of enemy-related injuries which clearly justify award of the Purple Heart are as follows:

- Injury caused by enemy bullet, shrapnel, or another projectile created by enemy action
- Injury caused by enemy-placed trap or mine
- Injury caused by enemy-released chemical, biological, or nuclear agent
- Injury caused by vehicle or aircraft accident resulting from enemy fire
- Concussion injuries caused as a result of enemy-generated explosions
- Mild traumatic brain injury or concussion severe enough to cause either loss of consciousness or restriction from full duty due to persistent signs, symptoms, or clinical finding, or impaired brain function for a period greater than 48 hours from the time of the concussive incident

3. Army Regulation 672-5-1 (Awards), in effect at the time, states the Army Good Conduct Medal was established by Executive Order 8809 and amended by Executive Order 9323 and by Executive Order 1044 is awarded for exemplary behavior, efficiency, and fidelity in active Federal military service. It is awarded on a selective basis to each

Soldier who distinguishes himself from among his fellow Soldiers by his exemplary conduct, efficiency, and fidelity while in an enlisted status. There is no right or entitlement to the medal until the immediate commander has made positive recommendation for its award, and until the awarding authority has announced the award in General Orders. To qualify for an award of the Good Conduct Medal, an enlisted person must meet specified criteria throughout a specified period of continuous enlisted active Federal military service:

- Each 3 years completed on or after 26 August 1940.
- For first award only, 1 year served entirely during the period 7 December 1941 to 2 March 1946
- For first award only, upon termination of service on or after 27 June 1950, of less than 3 years but more than 1 year
- For first award only, upon termination of service, on or after 27 June 1950, of less than 1 year when final separation was by reason of physical disability incurred in line of duty
- For first award only, for those individuals who were killed in action or who died prior to the completion of one year's active Federal military service

4. Department of the Army Pamphlet 672-3 (Unit and Campaign Participation Credit Register) shows Department of the Army General Orders Number 54, dated 1974, announced award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation to 2nd Battalion, 17th Artillery, for the period 1 August 1965 to 16 April 1971.

5. Army Regulation 15-185 (ABCMR), currently in effect, prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. 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.

//NOTHING FOLLOWS//