

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 January 2025

DOCKET NUMBER: AR20240005043

APPLICANT REQUESTS: the spouse of the deceased former service member (SM), requests reconsideration of his previous request for award of the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- SM's self-authored diagram of incident
- SM's Certification of Death
- SM's DD Form 214 (Armed Forces of the U.S. Report of Transfer or Discharge) for the period ending on 15 December 1967

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the SM's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20070018381 on 27 March 2008.
2. The applicant states, in effect, her husband never received the Purple Heart from wounds he sustained in battle. The SM was involved in a heavy mortar attack in Lai Khe, Vietnam. During the attack the SM sustained multiple sharp metal wounds throughout his body to include his left butt cheek, forehead, and leg. The SM watched a fellow service member lose his life during the attack; Sergeant [REDACTED] was decapitated. The SM passed away on 11 February 2021, with sharp metal impelled within his body from the devastating mortar attack. He never received his just honors for serving his country and sacrificing the ultimate price for freedom. The SM should have been awarded the Purple Heart, this is a tragedy on the part of the Army and the country.
3. A review of the SM's service record shows:
 - a. On 29 December 1964, the SM enlisted in the Regular Army for 3 years. Following completion of training, he served as a 63C (Track Vehicle Mechanic). The highest grade he attained was E-5.

b. On or about 14 January 1966, the SM was reassigned to the Republic of Vietnam and further assigned to D Company, 1st Engineer Battalion.

c. On or about 13 January 1967, the SM departed the Republic of Vietnam and was further assigned to Fort Sill, OK, with duty as a wheel vehicle mechanic.

d. His DA Form 20 (Enlisted Qualification Record), item 40 (Wounds) is void of an entry.

e. On 20 October 1967, the SM underwent a medical examination. He was deemed medically qualified for release from active duty.

f. On 15 December 1967, the SM was honorably released from active duty and transferred to the U.S. Army Reserve (USAR) Control Group (Annual Training).

DD Form 214, item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) reflects the following:

- National Defense Service Medal
- Republic of Vietnam Campaign Medal with 60 Device
- Marksmanship (Rifle) Badge
- Vietnam Service Medal with Bronze Star (1)
- Overseas Service Bars (2) (Vietnam)

g. On 16 December 1970, the Office of the Adjutant General, U.S. Army Administration Center, St. Louis, MO, issued Letter Orders Number 12-1108356 honorably discharging the SM from the USAR Control Group (Standby), effective 28 December 1970.

h. The SM petitioned the ABCMR requesting correction of his DD Form 214 to reflect award of the Purple Heart. On 27 March 2008, the Board determined that the evidence presented was sufficient to warrant a recommendation for partial relief. As a result, the Board recommended that all Department of the Army records of the FSM be corrected by showing award of the Good Conduct Medal (1st Award), the Republic of Vietnam Gallantry Cross with Palm Unit Citation, the Republic of Vietnam Civil Actions Honor Medal-First Class, two awards of the Meritorious Unit Commendation, and two bronze service stars to be affixed to his already-awarded Vietnam Service Medal. The Board further determined that the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommended denial of so much of the application that pertains to award of the Purple Heart.

i. A DD Form 215 (Correction to DD Form 214) dated 28 October 2008, shows the corrective action directed by the Board. The following award(s) were added:

- Good Conduct Medal
- Meritorious Unit Commendation with 1 Bronze Oak Leaf Cluster
- National Defense Service Medal
- Vietnam Service Medal with 2 Bronze Service Stars
- Overseas Service Ribbon
- Republic of Vietnam Campaign Ribbon w/Device (1960)
- Marksman Badge with Rifle Bar

4. 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 Awards and Decorations Branch of the U.S. Army Human Resources Command, failed to reveal any orders for the Purple Heart. The SM's name is not shown on the Vietnam casualty listing. This is a listing of Vietnam era casualties commonly used to verify entitlement to award of the Purple Heart. The SM's personnel records do not contain an official Army message or a Western Union telegram notifying his next of kin of an injury or wound sustained in action. This was a typical notification procedure for injuries at the time.

5. The applicant provides:

- a. A hand drawn illustration by the SM that details the mortar attack in Vietnam, location of various base facilities, and the injuries he received from shrapnel.
- b. The SM's death certificate showing that he died on [REDACTED]

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. The Board determined to be awarded the Purple Heart, the regulatory guidance requires all elements of the award criteria to be met; there must be proof a wound was incurred as a result of enemy action, that the wound required treatment by medical personnel, and that the medical personnel made such treatment a matter of official record. The Board did not find documentary evidence that clearly or explicitly shows criteria for award of the Purple Heart. Based on the evidence, the Board determined the applicant does not meet the criteria for award of 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 the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

4/8/2025



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. 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.
 - a. Paragraph 2-9 states 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.
 - b. Paragraph 2-15a governs requests for reconsideration. This provision of the regulation allows an applicant to request reconsideration of an earlier decision of the ABCMR. The applicant must provide new relevant evidence or argument that was not considered at the time of the ABCMR's prior consideration.
2. Army Regulation 600-8-22 (Military Awards) states 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.
 - a. Examples of enemy-related injuries which clearly justify the Purple Heart:
 - Injury caused by enemy bullet, shrapnel, or other 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 explosion
 - b. Examples of injuries or wounds which clearly do not justify the Purple Heart:
 - Frostbite (excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951)
 - Trench foot or immersion foot, heat stroke, battle fatigue, first degree burns, and food poisoning not caused by enemy agents
 - Chemical, biological, or nuclear agents not released by the enemy
 - Disease not directly caused by enemy agents
 - Accidents, to include explosive, aircraft, vehicular, and other accidental wounding not related to or caused by enemy action
 - Self-inflicted wounds, except when in the heat of battle and not involving gross negligence
 - Post-Traumatic Stress Disorder
 - Airborne (for example, parachute/jump) injuries not caused by enemy action

- Hearing loss and tinnitus (for example: ringing in the ears)
- Abrasions and lacerations (unless of a severity to be incapacitating)
- Bruises (unless caused by direct impact of the enemy weapon and severe enough to require treatment by a medical officer)
- Soft tissue injuries (for example, ligament, tendon or muscle strains, sprains, and so forth)

3. Army Regulation 672-5-1 (Decorations and Awards) in effect at that time provides that the Purple Heart may be awarded by the Commanding General of any separate force who is in the grade or position of a major general or higher or by any field grade officer to whom he may delegate authority. The Purple Heart was established by General George Washington at Newburgh, New York, on 7 August 1782 and revived by the President on 22 February 1932, is awarded to any member of the Armed Forces of the United States and to any civilian citizen of the United States serving with the Army who was wounded either in action against an armed enemy of the United States or as a direct result of an act of such enemy, provided the wound necessitated treatment by a medical officer. The criteria for an award of the Purple Heart requires the submission of substantiating evidence to verify:

- the injury/wound was the result of hostile action
- the injury/wound must have required treatment by medical personnel
- the medical treatment must have been made a matter of official record during the period of hostilities or within 6 months thereafter

//NOTHING FOLLOWS//