

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 January 2025

DOCKET NUMBER: AR20240005054

APPLICANT REQUESTS: award of the Purple Heart Medal and a personal appearance before the Board via video/telephone.

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

- DD Form 149 (Application for Correction of Military Record), 12 March 2024
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), 22 November 1971

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 while serving in Vietnam, he was wounded twice but never received the Purple Heart. The first time he was wounded was during his in-country demonstration of the M-79 Grenade Launcher while watching others fire the weapon, he was hit by a piece of shrapnel in the neck. He went to the medic and the medic placed a band aid over the wound. The shrapnel punctured his neck, and he has a scar since the incident. The second wound was from the burn he received from a trip flare. He was removing the trip flare from his side pocket when the pin came out and ignited while doing so. The wound was denied stating it was self-inflicted wound. He states he was not trying to inflict extreme pain on purpose. He served honorably and believes the request is overdue and should be honored for his service to this country. It is a reward for his service and dedication to the military.
3. On his DD Form 149, the applicant indicates post-traumatic stress disorder (PTSD) is related to his request.
4. The applicant enlisted in the Regular Army on 22 December 1969, for a 2-year period. He extended his enlistment on 21 April 1970 for an additional 1-month. He held the military occupational specialty of 16F (Cannoneer).

5. His DA Form 20 (Enlisted Qualification Record) shows the following:
 - a. The highest rank he attained was specialist fourth class/E-4.
 - b. Item 31 (Foreign Service) shows service in Vietnam from 16 September 1970 to 1 December 1970.
 - c. Item 38 (Record of Assignments) shows he earned all excellent conduct and efficiency ratings and he served with the following units:
 - (1) arriving at Vietnam on 26 September 1970 serving with 4th Battalion, 60th Artillery
 - (2) arriving at the 67th Evacuation Hospital on 25 November 1970
 - d. Item 40 (Wounds) does not list any wounds.
6. He returned from Vietnam on 1 December 1970 and conducted a separation examination on 2 November 1971, where he remarks while in Vietnam November 1970, he was burned on his left hand and thigh.
7. His DD Form 214 shows he was honorably transferred to the United States Army Reserve on 22 November 1971. He completed 1 year, 11 months, and 1 day of net active service with foreign service in Vietnam from 16 September 1970 to 1 December 1970. He was awarded or authorized the following awards:
 - National Defense Service Medal
 - Vietnam Service Medal w/1 Bronze Service Star
 - Sharpshooter - Rifle
8. The applicant's Official Military Personnel File does not contain any of the following documentation normally used to help verify entitlement to award of the Purple Heart:
 - Western Union Telegrams and/or letters
 - casualty feeder reports
 - medical records indicating hospitalization
 - orders/awards citations referencing injury or wounds
 - his name is not listed on the Vietnam Casualty Roster
9. The applicant's record shows he had all "excellent" conduct and efficiency ratings and he received an honorable characterization of service. Additionally, his record does

not contain any evidence of convictions by a court-martial or a commander's statement of disqualification for award of the Army Good Conduct Medal.

10. Regulatory guidance provides the criteria for award of the Purple Heart requires the wound is a result of hostile enemy action, the wound required treatment by a medical officer, the treatment of the wound was documented in the medical record.

11. In reaching its determination, the Board can consider the applicant's petition, service record, and statements in light of the published guidance on equity, injustice, or clemency.

12. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an award of the Purple Heart Medal. He asserts PTSD is related to his request. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following: 1) The applicant enlisted in the Regular Army on 22 December 1969; 2) The applicant was deployed to Vietnam from 16 September-1 December 1970; 3) The applicant was honorably transferred to the United States Army Reserve on 22 November 1971.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the applicant's available military service and medical records. The VA's Joint Legacy Viewer (JLV) was also examined. No additional medical records were provided for review.

c. The applicant asserts PTSD is related to his request to be awarded a Purple Heart Medal for injuries incurred during his deployment to Vietnam. There is insufficient evidence the applicant reported or was diagnosed with a mental health condition including PTSD, while on active service.

d. A review of JLV provided evidence the applicant underwent a VA Compensation and Pension Evaluation in 2021, and he was diagnosed with service-connected PTSD (70%SC). There is insufficient evidence the applicant is currently engaged with behavioral health treatment at the VA at this time.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence to support the applicant had a mental health condition or experience that meets the criteria to be awarded the Purple Heart Medal for injuries incurred during his deployment to Vietnam.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes, the applicant asserts PTSD is related to his request to be awarded a Purple Heart Medal. The applicant was diagnosed with service-connected PTSD in 2021 by the VA.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts PTSD is related to his request to be awarded a Purple Heart Medal. The applicant was diagnosed with service-connected PTSD in 2021 by the VA.

(3) Does the condition or experience actually excuse or mitigate the misconduct? No, there is sufficient evidence the applicant was diagnosed with service-connected PTSD by the VA in 2021. However, the diagnosis of service-connected PTSD is not sufficient to meet the criteria for a Purple Heart Medal, which is an award for a physical injury incurred in combat.

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 both injury incidents described by the applicant involving accidental injuries not directly related to combat with an armed enemy, which is a requirement to award the Purple Heart, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's military record.

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 note below from the analyst of record and recommended that change be completed to more accurately reflect the military service of the applicant.

5/4/2025

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.

ADMINISTRATIVE NOTE(S):

A review of the applicant's record and Army Regulations show he meets the regulatory criteria for an additional award not currently listed on his DD Form 214; for the period ending 22 November 1971 by adding the Republic of Vietnam Gallantry Cross with Palm Unit Citation in Item 24 – Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized.

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. Section 1556 of Title 10, U.S. Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to ABCMR applicants (and/or their counsel) prior to adjudication.
3. 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. The ABCMR has the discretion to hold a hearing; applicants do not have a right to appear personally before the Board. The Director or the ABCMR may grant formal hearings whenever justice requires.
4. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. It provides that 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.
 - a. Examples of enemy-related injuries which clearly justify award of the Purple Heart are as follows:
 - (1) Injury caused by enemy bullet, shrapnel, or other projectile created by enemy action.
 - (2) Injury caused by enemy-placed trap or mine.
 - (3) Injury caused by enemy-released chemical, biological, or nuclear agent.

- (4) Injury caused by vehicle or aircraft accident resulting from enemy fire.
- (5) Concussion injuries caused as a result of enemy-generated explosions.
- (6) 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.

b. Examples of injuries or wounds which clearly do not justify award of the Purple Heart are as follows:

- (1) Frostbite
- (2) Trench foot or immersion foot.
- (3) Heat stroke.
- (4) Food poisoning not caused by enemy agents.
- (5) Chemical, biological, or nuclear agents not released by the enemy.
- (6) Battle fatigue.
- (7) Disease not directly caused by enemy agents.
- (8) Accidents, to include explosive, aircraft, vehicular, and other accidental wounding not related to or caused by enemy action.
- (9) Self-inflicted wounds, except when in the heat of battle and not involving gross negligence.
- (10) Post traumatic stress disorders.
- (11) Airborne (for example, parachute/jump) injuries not caused by enemy action.
- (12) Hearing loss and tinnitus (for example: ringing in the ears).
- (13) Mild traumatic brain injury or concussions that do not either result in loss of consciousness or restriction from full duty for a period greater than 48 hours due to persistent signs, symptoms, or physical finding of impaired brain function.

(14) Abrasions and lacerations (unless of a severity to be incapacitating).

(15) Bruises (unless caused by direct impact of the enemy weapon and severe enough to require treatment by a medical officer).

(16) Soft tissue injuries (for example, ligament, tendon or muscle strains, sprains, and so forth).

(17) First degree burns.

5. 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, 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.

//NOTHING FOLLOWS//