

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 January 2025

DOCKET NUMBER: AR20240005537

APPLICANT REQUESTS: correction of his DD Form 214 (Report of Separation from Active Duty) for the period ending 25 June 1973, to reflect his authorized awards. Additionally, he requests award of the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 2-1 (Personnel Qualification Record), page 1

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 is service connected for shell fragment wounds. Correction of his records is needed for benefits.
3. A review of the applicant's available service records reflect the following:
 - a. Having previous honorable service in the Idaho Army National Guard and the Regular Army, the applicant reenlisted in the Regular Army on 16 June 1970.
 - b. On or about 30 August 1970, the applicant was reassigned to the Republic of Vietnam and further assigned to B Troop, 1st Squadron, 1st Cavalry, 23d Infantry Division.
 - c. On or about 24 August 1971, the applicant departed the Republic of Vietnam and was further assigned to Fort Knox, KY, with duty as a squad leader.
 - d. On 22 June 1973, Headquarters, 4th Infantry Division (Mechanized), Fort Carson, CO, issued Special Orders Number 173 reassigning the applicant to the Transfer Point U.S. Army Garrison for separation action.

e. The applicant was honorably discharged on 25 June 1973. DD Form 214, item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) reflects "See 30." Item 30 does not list any authorized awards. [See Administrative Notes].

f. Having previous honorable service in the Army National Guard and Regular Army, the applicant enlisted in the U.S. Army Reserve (USAR) on 22 July 1978.

g. On 28 June 1984, the USAR Personnel Center issued Orders D-06-026134 honorably discharging the applicant from the Ready Reserve, effective 21 July 1984.

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 applicant'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 applicant'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.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the lack of sufficient evidence showing the applicant sustained an injury in combat requiring medical treatment, the Board concluded there was insufficient evidence of an error or injustice warranting awarding the Purple Heart.

2. However, the Board did note the administrative notes below from the analyst of record and recommended those awards be added to the applicant's record to more accurately reflect the military service of the applicant.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:XXX	:XXX	:XXX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all awards annotated below in the administrative notes section be added to the applicant's military record to more accurately annotate his military service.
2. The Board further determined 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 awarding and adding the Purple Heart.

X **//SIGNED//**

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 shows his DD Form 214 for the period ending 25 June 1973 does not list decorations he is authorized. As a result, amend the DD Form 214 by adding the following entries in item 24.

- National Defense Service Medal
- Vietnam Service Medal with two Bronze Service Stars
- Army Commendation Medal with Oak Leaf Cluster
- Republic of Vietnam Campaign Medal with device (1960)

- Combat Infantryman Badge
- Overseas Service Bars (2)
- Good Conduct Medal (2nd Award)
- Republic of Vietnam Gallantry Cross with Palm
- Expert Badge with Rifle Bar

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. Title 10, U.S. Code, Section 1556, requires the Secretary of the Army to ensure that an applicant seeking corrective action by 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 Army Board for Correction of Military Records applicants (and/or their counsel) prior to adjudication.

3. 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)

4. Army Regulation 635-5 (Separation Documents) prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. The version in effect at the time established standardized policy for preparation of the DD Form 214. The DD Form 214 is a synopsis of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of active Army service at the time of release from active duty, retirement, or discharge. It states the purpose of the separation document is to provide the individual with documentary evidence of his or her military service at the time of release from active duty, retirement, or discharge. It is important that information entered on the form be complete and accurate, reflective of the conditions as they existed at the time of separation. For item 1, enter last name, first name, and full middle name, if any.

5. 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//