

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 April 2025

DOCKET NUMBER: AR20240006315

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)
- A congressional inquiry
- Department of Veterans Affairs (VA) Rating Decision, 26 January 2015
- VA Rating Decision, dated 2 September 2021
- VA Form 21-0781 (Statement in Support of Claim for Service Connection for Post-Traumatic Stress Disorder (PTSD))
- A list of conditions and photos
- Medical records
- A letter issued by the Awards and Decorations Branch, Human Resources Command (HRC), 21 May 2024

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 requesting the award of the Purple Heart.
3. The applicant provides and the service record shows:
 - On 24 June 2008, he enlisted in the Regular Army (RA)
 - He served in Afghanistan from 21 August 2009 through 1 October 2010
 - He served in Afghanistan again from 14 February 2012 through 30 September 2012 and was awarded the Combat Action Badge
 - On 7 March 2012, while the applicant was serving as the truck commander, during his second tour in Afghanistan, his vehicle hit an improvised explosive device (IED)

- On 21 September 2012, he was diagnosed as having sustained concussion, an intracranial injury, and headaches that are associated with his traumatic brain injury (TBI) that incurred during his second deployment to Afghanistan
- His evaluation for the period ending 30 September 2012 shows he engaged in multiple combat operations, engaged and destroyed one enemy vehicle, and led intense enemy engagements
- On 17 November 2012, he was honorably discharged due to completion of required service. He completed 4 years, 4 months, and 24 days of active federal service, and 1 year, 8 months, and 28 days of foreign service.
- On 14 April 2021, he was awarded a 70 percent (%) disability rating for TBI, and 50% rating for migraines, by the VA.

4. On 21 May 2024, in a letter issued by the Awards and Decorations Branch, HRC, in response to the applicant's congressional inquiry shows the following:

- In order to determine the applicant's entitlement for the Purple Heart, they require medical documentation describing both diagnoses
- Treatment of injuries caused by the enemy immediately after, or close to the incident date, and signed or endorsed by a medical professional in accordance with Army Regulation 600-8-22 (Military Awards)
- They must be able to review official military medical documentation in order to conclusively link any qualifying diagnosis to a specific combat-related event

5. Medical documents and pictures submitted by the applicant, show the injuries he incurred during his service in Afghanistan while engaging with enemy forces, and the damage the IED attack caused on military equipment.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Based upon the available documentation, including medical records and an eyewitness statement from the unit medic, the Board concluded there was sufficient evidence showing the applicant was injured as a result of enemy action while in combat. As a result, the Board recommended granting the applicant's request for a Purple Heart.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:XXX	:XXX	:XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected by awarding and adding the Purple Heart for injuries incurred on 7 March 2012, while serving in Afghanistan.

//SIGNED//

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 (Armed Forces), United States Code (USC), 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 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 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.

3. 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 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 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

4. Human Resources Command (HRC) Military Personnel (MILPER) Message Number 11-125 states the Secretary of the Army approved Army Directive 2011-07 (Awarding the Purple Heart). The directive provides clarifying guidance to ensure the uniform application of advancements in medical knowledge and treatment protocols when considering recommendations for award of the Purple Heart for concussions (including mild traumatic brain and concussive injuries that do not result in a loss of consciousness).

a. HRC verified award of the Purple Heart for a Traumatic Brain Injury (TBI) injury is retroactive only to 11 September 2001 and that all requests that are not processed within theater must be processed through the peacetime chain of command. Awards of the Purple Heart for injuries incurred in a previous deployment and requests that are not

processed in the combat theater must be processed through the Soldier's current chain of command to the Commander, HRC. When recommending and considering award of the Purple Heart, the chain of command will ensure the Purple Heart criteria in Army Regulation 600-8-22, paragraph 2-8, are met and that both diagnostic and treatment factors are present and documented in the Soldier's medical records by a medical officer.

b. The following non-exclusive list provides examples of signs, symptoms, or medical conditions documented by a medical officer or medical professional that meet the standard for award of the Purple Heart:

- diagnosis of concussion or mild traumatic brain injury
- any period of loss or decreased level of consciousness
- any loss of memory for events immediately before or after the injury neurological deficits (weakness, loss of balance, change in vision, praxis (i.e. difficulty with coordinating movements), headaches, nausea, difficulty with understanding or expressing words, sensitivity to light, etc.) that may or may not be transient
- intracranial lesion (positive computerized axial tomography (CAT) or magnetic resonance imaging (MRI) scan

c. The following non-exclusive list provides examples of medical treatment for concussion that meet standard of treatment necessary for award of the Purple Heart:

- limitation of duty following the incident (limited duty, quarters, etc.)
- pain medication such as acetaminophen, aspirin, ibuprofen, etc., to treat injury
- referral to neurologist or neuropsychologist to treat the injury
- rehabilitation (such as occupational therapy, physical therapy, etc.) to treat injury

d. Combat theater and unit command policies mandating rest periods or "down time" following incidents do not constitute qualifying treatment for concussion injuries. To qualify as medical treatment, this rest period must have been directed by a medical officer or medical professional for the individual after diagnosis of an injury.

e. The Purple Heart may be made for wounds (including TBI and concussive injuries) treated by a medical professional other than a medical officer, provided a medical officer includes a statement in the Soldier's medical record that the extent of the wounds was such that they would have required treatment by a medical officer if one had been available to treat them.

//NOTHING FOLLOWS//