ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE: 12 March 2025

DOCKET NUMBER: AR20240006361

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show award of the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs Veteran Benefits Administration (VA) Rating Decision Letter
- Self-Authored Statement
- DD Form 689 (Individual Sick Slip)
- DD Form 638 (Recommendation for Award)
- Army Commendation Medal Certificate
- Permanent Order 106-413
- Memorandum For Record (MFR) Army Reserve Components Achievement Medal (ARCAM)
- MFR Statement of Wartime Service
- DA Form 4187 (Personnel Action)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)

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 on the morning of 14 March 2020, he was located at Camp Taji, Iraq, in his room in pod 3. room 46C. He was sleeping while his roommate SPC G___ was wide awake with headphones on. At about 10:45 he heard two soft booms, which caused him to wake up immediately to see what was going on. Immediately after, he heard a loud whistle followed by a boom of an impact nearby causing his room to shake. After realizing what just happened, he started to reach for his Improved Outer

Tactical Vest (IOTV) and Advanced Combat Helmet (ACH) but within a split second, a rocket hit within 6 meters give or take between our Chu (Containerized housing unit) and a concrete T-Wall causing him to slam against the wall which made him unconscious for about 2 minutes. When he finally gained consciousness shortly after the impact and began to put on his gear while taking cover inside his room because he and his roommate thought that running for a bunker would be more dangerous and felt more protected under the concrete canopies of pod 3. After four (4) minutes, they heard the loudspeakers telling everyone to shelter in place and waited for all clear to gain accountability of those that were in their section of Chu's. They then began to head to the bunker that was next to the road in between pod 3 and the self-service laundry. Not thinking of it at the time, he did not think about getting checked out by Troop Medical Clinic (TMC) to be evaluated for the injury he sustained from the rocket attack until 17 March 2020. He was treated for migraines and trouble sleeping but was only given ibuprofen for medication. After returning home, he reached out to the VA in December of 2020 for treatment and was diagnosed with a traumatic brain injury (TBI) due to symptoms he still faces to this day of constant headaches, trouble sleeping, vision impairment, trouble concentrating, light sensitivity and anxiety. Please award the Purple Heart due to the indirect combat from Iranian Militia causing a traumatic brain injury from an explosive rocket attack.

3. The applicant provides the following documents:

a. A copy of his VA Rating Decision Letter dated 30 December 2021 that shows a service connection for migraine headaches (claimed as TBI); the service connection for posttraumatic stress disorder (PTSD) with traumatic brain injury (TBI) (claimed as acquire mental condition to include combat PTSD, sleep disorder, nightmare, anxiety, depression, and cold sweats) was granted with an evaluation of 50 percent effect 29 November 2020. The service connection has been established from the day alter your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge. The VA assigned a 50 percent evaluation for his migraine headaches based due to “very frequent completely prostrating and prolonged attacks productive of severe economic inadaptability” with additional symptoms with “characteristic prostrating attacks occurring on an average once a month over last several months.”

b. A copy of an individual sick slip dated 17 March 2020 that shows the applicant experienced an in the line of duty injury as a result of a rocket attack.

c. A copy of a recommendation for a ARCOM that indicates the applicant was exposed to two separate rocket attacks while deployed to in a combat environment.

d. A copy of his ARCOM certificate for exceptional meritorious service in a combat zone with exposure to risk of hostile action.

e. A copy of permanent order 106-413, awarding the Combat Action Badge for period of service 14 March 2020.

f. A copy of a MFR awarding the ARCAM first award for period of service 27 July 2016-26 July 2019.

g. A copy of a MFR certifying the periods of service for the applicant in support of Operation Spartan Shield and Operation Inherent Resolve in the US Army Central Commands Area of Operation.

h. A copy of his DD Form 214 period ending 28 November 2019 shows his record of service.

4. A review of the applicant's service record shows:

a. He enlisted in the Oklahoma Army National Guard (OKARNG) on 27 July 2016 and enter active duty on 12 July 2017.

b. A copy of the applicants DD Form 214 period ending 6 April 2018 shows his record of service.

c. Orders HO-318-0325 dated 14 November 2019 shows the applicant was deployed in support of Operations Enduring Freedom OEF (Spartan Shield) on 15 December 2017.

d. A copy of the applicants DD Form 214 period ending 28 November 2020 shows his record of service.

e. A copy of the applicants NGB Form 22 period ending 26 July 2022 shows his record of service in the National Guard.

f. A statement of the applicant's points earned towards retirement was prepared on 27 July 2022.

g. The applicant provided a DD Form 689 indicating he was seen at the TMC for issues sleeping and dealing with the results of the rocket attack dated 17 March 2020, approximately 3 days after the rocket attack (in line of duty). Subsequently, the applicant was treated for TBI and PTSD for service-connected injuries sustained while in combat and granted a VA rating with an evaluation of 50 percent effective 29 November 2020.

5. By regulation, the Purple Heart is awarded for a wound/injury 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 medical personnel
- the medical treatment must have been made a matter of official record

6. MEDICAL REVIEW:

1. The Army Review Boards Agency (ARBA) Medical Advisor reviewed the supporting documents, the Record of Proceedings (ROP), and the applicant's available records in the Interactive Personnel Electronic Records Management System (iPERMS), the Health Artifacts Image Management Solutions (HAIMS) and the VA's Joint Legacy Viewer (JLV). The applicant requests Purple Heart award due to indirect combat from Iranian Militia causing traumatic brain injury from an explosive rocket attack.

2. The ABCMR ROP summarized the applicant's record and circumstances surrounding the case. The applicant enlisted in the Army National Guard (OK) 27Jul2016. He was in active service 20170712 to 20201128. His MOS was 15N Avionic Mech. He served in Iraq 20191221-20200520 and Kuwait 20191219-20191221 and 20200520-20201003. He was a recipient of the Combat Action Badge.

3. Pertinent records concerning the TBI in March 2020

a. In his personal statement, the applicant stated that at Camp Taji, Iraq on the morning of 14Mar2020 at 10:45, he was sleeping, and a rocket hit within 6 meters between his Containerized Housing Unit and a concrete T-Wall causing him to slam against the wall. He lost consciousness for about 2 minutes. He did not go to TMC until 17Mar2020. He stated that he was treated for migraines and trouble sleeping. He was given ibuprofen. He states that his residual symptoms are constant headaches, trouble sleeping, vision impairment, trouble concentrating, light sensitivity and anxiety.

b. 17Mar2020 Individual Sick Slip indicated the applicant was seen for issues with sleeping and issues dealing with the rocket attack. He was returned to duty.

c. 17Mar2020 Outpatient Note/Theatre Note. The applicant reported having insomnia since a mortar attack 3 days prior. He complained of "panic attacks" and sweating. He was sleeping 6 hours/night. Indicated some stressors at home before attacks as well. He denied thoughts of suicide. He denied headache, ear symptoms, and lightheadedness. He did not report head injury, loss of consciousness, dizziness, nausea or emesis, amnesia or memory problems, confusion, visual disturbance, or other symptoms commonly associated with acute TBI. He was not on any medications.

Examination of the eye, motor and neurologic systems were normal. Impression: Acute Stress Reaction. It was determined that his insomnia was likely due to anxiety. No medications were suggested or prescribed. He was released without limitations, and he was referred to BH services. He was not diagnosed with TBI during this visit.

d. 16Oct2020 SRP Bldg Charles Moore Health Clinic Fort Hood. This Post Deployment Heath Assessment (DD Form 2796) was completed for Iraq, Kuwait deployment. The TBI and PTSD screens were positive. Of note, the applicant reported one concussive event (March 2020). He endorsed that headache, trouble sleeping, and noises in his head or ears 'bothered him a lot'. He was not currently on a profile and had not been on a profile in the past 2 years.

e. 16Oct2020 SRP Hearing Conservation visit. His hearing was normal and there was no significant threshold shift.

f. 11Aug2021 Initial Residuals of TBI DBQ. During this exam, the applicant reported that he went to take cover from the rocket attack and was knocked down, hitting his head on the nightstand. He reported having had a persistent headache, dizziness and feeling very groggy for at least several days. He complained of memory and concentration issues. He also reported a vehicle rollover accident in 2020. A MoCA was not completed. Neuropsychological testing was not completed.

g. The 30Dec2021 VA Rating Decision showed the applicant was granted service connection for TBI at 50% and PTSD at 50% both effective 29Nov2020.

4. Summary/Opinion

a. In the 16Jul2020 Recommendation for Award (DA Form 638), command mentioned 2 separate rocket attacks at Camp Taji, Iraq. The applicant received The Army Commendation Medal, and he also received the Combat Action Badge for period of service 14Mar2020.

b. The applicant reported treatment for TBI in theatre; however, review of the note appeared to be mental health focused. TBI screening was positive during the post deployment assessment visit. A TBI was not officially diagnosed until almost a year and a half after the event during 11Aug2021 Initial Residuals of TBI DBQ.

c. Based on review of currently available records, the applicant sustained TBI on 14Mar2020; however, the event did not meet requirements for PH award. Per AR 600-8-22, 2-7 Purple Heart, the wound must have been of such severity that it required treatment, not merely examination. The applicant was examined on 17Mar2020, but no treatment was required/rendered. For example, the TBI did not require rest for 48 hours or greater or medication for treatment of symptoms. He received a referral for BH, and

he was returned to duty. In the ARBA Medical Reviewer's opinion, the TBI event on 14Mar2020 was not a qualifying event for PH award.

BOARD DISCUSSION:

1. 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 and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and the medical review, the Board concurred with the ARBA Medical Reviewer's opinion, the TBI event on 14 March 2020 was not a qualifying event for PH award. The Board noted the applicant's assertions that described him being rendered unconscious by the blast and later experiencing symptoms consistent with traumatic brain injury (TBI), for which he sought treatment three days later at the Troop Medical Clinic. The Board acknowledged the applicant's exposure to hostile fire, his award of the Combat Action Badge, and his meritorious service in a combat zone.

2. However, by regulation, the Purple Heart requires substantiating evidence that the injury was a direct result of hostile action, required treatment by medical personnel, and that the treatment was made a matter of official record. While the applicant did seek medical attention on 17 March 2020, the documentation provided does not clearly establish that the injury was diagnosed or treated as a wound sustained in direct hostile action at that time. The delay in seeking care and the absence of contemporaneous medical documentation specifically linking the injury to the rocket impact do not meet the regulatory threshold for award of the Purple Heart. Therefore, the Board denied relief.

BOARD VOTE:

Mbr 1	Mbr 2	Mbr 3	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	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.

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.

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. Army Regulation 600-8-22 (Military Awards) provides Army policy, criteria, and administrative instructions concerning individual military decorations. The Purple Heart is awarded in the name of the President of the United States to any member of an Armed Force or any civilian national of the United States who, while serving under competent authority in any capacity with one of the U.S. Armed Services after 5 April 1917, has been wounded or killed, or who has died or may hereafter die after, being wounded:

- In any action against an enemy of the United States
- In any action with an opposing armed force of a foreign country in which the Armed Forces of the U.S. are or have been engaged
- While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the U.S. is not a belligerent party.
- As the result of an act of any such enemy of opposing Armed Forces
- As the result of an act of any hostile foreign force

3. The Purple Heart was established by General George Washington at Newburgh, NY on 7 August 1782 during the Revolutionary War. It was reestablished by the President of the United States per War Department General Orders Number 3 in 1932. It was awarded in the name of the President of the United States to any member of the Armed Forces or any civilian national of the United States who, while serving under competent authority in any capacity with one of the U.S. Armed Services after 5 April 1917, died or sustained wounds as a result of hostile action. Effective 19 May 1998, award of the Purple Heart is limited to members of the Armed Forces of the United States.

4. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised post-traumatic stress disorder (PTSD) criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged under other than honorable conditions and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

5. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including PTSD, traumatic brain injury, sexual assault, or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based, in whole or in part, on those conditions or experiences. The guidance further describes evidence sources and criteria and requires boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

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

//NOTHING FOLLOWS//