

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 January 2025

DOCKET NUMBER: AR20240006377

APPLICANT REQUESTS: award of two Purple Heart Medals 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), 28 February 2024
- Western Union Telegram
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), 10 June 1969

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 award of two Purple Hearts because of injuries he received in Vietnam.
3. A review of the applicant's official military personnel file contains awards he is entitled to; this will be addressed in the administrative notes of the Record of Proceedings.
4. The applicant was inducted in the Army of the United States on 11 October 1967. He held the military occupational specialty of 13A (Field Artillery Basic).
4. His DA Form 20 (Enlisted Qualification Record) shows the following:
 - a. The highest rank he attained was private first class/E-3.
 - b. Item 31 (Foreign Service) shows service in Vietnam from 19 March 1968 to 8 October 1968.

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 23 March 1968 serving with 3rd Battalion Airborne 187th Infantry, serving in military occupational specialty of 11B (Infantryman)

(2) arriving at 106th General Hospital on 20 September 1968 in a patient status

d. Item 40 (Wounds) shows a gunshot wound to the right ankle.

5. A Western Union telegram was sent to the applicant's family on behalf of the Secretary of the Army informing his family of the incident on 12 September 1968 stating he was slightly wounded while in Vietnam as a result of hostile action. The applicant was on a combat operation when he was hit by hostile small arms fire. He was treated and hospitalized in Vietnam.

6. He returned from Vietnam on 9 October 1968. On 20 March 1969, he was recommended to undergo a physical evaluation board due to being unfit for military service. An informal hearing of his case indicated he was unfit for military service, incurred while entitled to receive basic pay, the proximate result of the performance of military service, a direct result of armed conflict, and was caused by an instrumentality of war. He was recommended to be placed on the Temporary Retired Disability List (TDRL) and to receive a combined rating of 30 percent (%) for osteomyelitis, chronic, right tibia and scar, superficial, right calf.

7. He was honorably retired and transferred to the U.S. Army Reserve on 10 June 1969. His DD Form 214 shows he completed 1 year and 8 months of net active service with foreign service in Vietnam for 6 months and 20 days. He was awarded or authorized the following awards:

- National Defense Service Medal
- Vietnam Service Medal
- Republic of Vietnam Campaign Medal with Device (1960)
- Combat Infantryman Badge
- Expert Badge (M-14 Rifle)
- Sharpshooter Badge (M-16 Rifle)

8. 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.

9. 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.

10. 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.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial 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. Upon review of the applicant's request and military record, the Board determined there is sufficient evidence to support the applicant's contentions for award of the Purple Heart. The applicant was inducted into the Army of the United States on 11 October 1967 and honorably retired and transferred to the USAR on 10 June 1969. The Board acknowledged, the applicant's DA Form 20 confirms service in Vietnam from 19 March 1968 to 8 October 1968, during which he sustained a gunshot wound to the right ankle as a result of hostile enemy fire.

2. The Board noted, the applicant's injury is further corroborated by a Western Union telegram dated 12 September 1968, which notified his family of the incident and confirmed he was wounded in combat. Additionally, his assignment to the 106th General Hospital in a patient status supports the severity of the injury. Based on this documentation, the Board found the applicant is entitled to one Purple Heart Medal, for his initial wound. Based on regulatory guidance to be eligible for a second Purple Heart, there must be a separate enemy action resulting in a new wound, not a continuation or complication of a previously awarded injury. Therefore, in this case only one Purple Heart is authorized for the original gunshot wound sustained in combat.

3. Furthermore, the applicant's record reflects all "excellent" conduct and efficiency ratings, no record of court-martial convictions, and an honorable characterization of service. Based on this, the applicant met the eligibility criteria for the Army Good Conduct Medal (AGCM) 1st Award, which was not annotated on his DD Form 214. Therefore, the Board granted partial relief for correction of the applicant's DD Form 214 to include the award of the Purple Heart Medal and the Army Good Conduct Medal.

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. In addition to the administrative notes annotated by the Analyst of Record (below the signature), the Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by adding in: item 24(Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) – Purple Heart and

awarding the Army Good Conduct Medal (1st Award) for exemplary service from 11 October 1967 to 10 June 1969 and adding the medal to his DD Form 214 for the period ending 10 June 1969.

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 award of two Purple Heart Medals.

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 and Army regulations show he meets the regulatory criteria for additional awards not currently listed on his DD Form 214; for the period ending 10 June 1969.

Remove the Vietnam Service Medal from Item 24 – Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized.

Add the following awards and/or medals in Item 24:

- Air Medal
- Vietnam Service Medal with three Bronze Service Stars
- Presidential Unit Citation
- Meritorious Unit Commendation
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

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) states the Purple Heart is awarded to any member who, while serving under competent authority in any capacity with one of the Army Services, has been wounded or killed or who has died or may hereafter die after being wounded as a result of hostile enemy action. Substantiating evidence must be provided to verify that 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.

3. Army Regulation 600-8-22 states the Vietnam Service Medal is awarded to all members of the Armed Forces of the United States for qualifying service in Vietnam after 3 July 1965 through 28 March 1973. Qualifying service included attachment to or assignment for 1 or more days with an organization participating in or directly supporting military operations. Qualifying service also included temporary duty for 30 consecutive days or 60 nonconsecutive days in Vietnam or contiguous areas, except that the time limit may be waived for personnel participating in actual combat operations. A bronze service star is authorized with this award for each Vietnam campaign a member is credited with participating in. Appendix B shows that during his service in the Republic of Vietnam, participation credit was awarded for the following two campaigns:

- Tet Counteroffensive (30 January 1968 to 1 April 1968)
- Counteroffensive – Phase IV (2 April 1968 to 30 June 1968)
- Counteroffensive – Phase V (1 July 1968 to 1 November 1968)

4. 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.

5. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the unit awards received by units serving in Vietnam. This pamphlet shows 3rd Battalion, 187th Infantry was cited for the following unit awards:

a. Department of the Army General Officer (DAGO) Number 38, 1971, awarded the Presential Unit Citation for the period 13 June 1968 to 23 September 1968.

b. DAGO Number 22, 1976, awarded the Meritorious Unit Commendation for the period 14 March 1968 to 3 October 1968.

c. DAGO Number 43, 1976, awarded the Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period 19 July 1968 to 14 May 1969 to 16 October 1968.

//NOTHING FOLLOWS//