

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 March 2025

DOCKET NUMBER: AR20240006810

APPLICANT REQUESTS:

- correction of his service records to reflect he was awarded the Purple Heart
- a personal appearance before the Board via video or telephonically

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs Form 21-4138 (Statement in Support of Claim)
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge)
- two pages from his medical records showing on 28 May 1969, exploratory incision on right region of iliac crest for foreign object, none found

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 in effect:

- he was wounded in Vietnam at Bear Cat outpost during a mortar attack
- he sustained a right hip injury from shrapnel
- treated on 28 May 1969 to remove shrapnel

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

- 29 August 1968, enlisted in the Regular Army
- DA Form 20 (Enlisted Qualification Record) shows:
 - Item 31 (Foreign Service) 23 January 1969 through 26 August 1970 service in the Republic of Vietnam

- Item 40 (Wounds): no annotation
- DD Form 214 shows:
 - 27 August 1971, honorably released from active duty
 - Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) void of an entry for the Purple Heart
 - Item 30 (Remarks): Vietnam: 23 January 69 through 26 August 1970
- The applicant's name is not listed on the Vietnam Casualty Roster

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 review based on law, policy, and regulation. The Board determined to be awarded the Purple Heart, the regulatory guidance requires all elements of the award criteria to be met; there must be proof a wound was incurred as a result of enemy action, that the wound required treatment by medical personnel, and that the medical personnel made such treatment a matter of official record. The Board did not find documentary evidence that clearly or explicitly shows criteria for award of the Purple Heart. Based on the evidence, the Board determined the applicant does not meet the criteria for award of the Purple Heart.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XX	:XX	:XX	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.

ADMINISTRATIVE NOTE(S):

Reference the enclosed request for correction of military records from the subject individual to correct his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge)) for the period of service August 29, 1968 through August 27, 1971, by adding to Item 24:

- add one Silver Service Star and a Bronze Service Star to his previously awarded Vietnam Service Medal
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Expert Marksmanship Qualification Badge with Rifle Bar (M-16)
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-14)
- Second Class Marksmanship Qualification Badge with Grenade 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. Army Regulation (AR) 600-8-22 (Military Awards) prescribes Department of the Army (DA) policy, criteria, and procedures for individual and unit military awards and foreign decorations and badges. Paragraph 2-7 (Purple Heart), while clearly an individual decoration, the PH differs from all other decorations in that an individual is not recommended for the decoration; rather, they are entitled to it upon meeting specific criteria. The PH is awarded to any member of an Armed Force of the United States who has been wounded, killed, or who has died or may hereafter die of wounds received under any of the following circumstances:

- 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 United States are or have been engaged
- 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
- As the result of an act of any such enemy or opposing armed force
- As the result of an act of any hostile foreign force
- While being taken captive or while being held as a Prisoner of War

To qualify for award of the PH, 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.

- Treatment of the wound will be documented in the member's medical or health record
- 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

//NOTHING FOLLOWS//