

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 February 2025

DOCKET NUMBER: AR20240007012

APPLICANT REQUESTS: reconsideration of his previous request to correct his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the service period ending 1 May 1968 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)
- DA Form 20 (Enlisted Qualification Record) pages 1 and 2
- DD Form 214 for the period ending 1 May 1968
- Medical Documents
- Self-Authored Letter, 13 July 1999
- Army Board for Correction of Military Records (ABCMR) Letter to Applicant, 29 March 2000

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the ABCMR in Docket Number AR1998014213 on 17 June 1999.

2. The applicant states he believes he has earned a Purple Heart; the criteria for a Purple Heart is being a member killed or wounded on or after 7 December 1941 and before 30 November 1993. He was treated on 19 December 1967 for a "shrapnel wound left finger" while in combat in Vietnam the day after the injury and he has attached the service treatment record. An injustice has occurred resulting in him not being awarded a Purple Heart after being wounded in combat in Vietnam. The following proof denotes the combat injury and entitlement. His DD Form 214 shows that he received the Vietnamese Campaign Medal and Combat Infantryman Badge, a Combat Infantryman Badge requires: (1) be an Infantryman satisfactorily performing infantry duties, (2) be assigned to an infantry unit during such time as the unit is engaged in active ground combat and (3) actively participate in such ground combat. The attached Duty Station log shows his in-country service in Vietnam from 10 January 1967 to 9 January 1968, coinciding with the noted 1-year foreign service on his DD Form 214. His medical documents show treatment the day after the injury on 19 December 1967

and the Department of Veterans Affairs (VA) decision letter granting service connection for the left finger, shrapnel wound is also attached. He has requested reconsideration before that was denied due to insufficient evidence to indicate probable material error or injustice on 29 March 2000. He wants to receive the award he has earned in service to his country while he is alive.

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

a. He was inducted into the Army of the United States on 2 May 1966.

b. His DA Form 20 (Enlisted Qualification Record) shows he was assigned to Company A, 2nd Battalion, 47th Infantry Regiment, 9th Infantry Division, and Company C, 3rd Battalion, 60th Infantry Regiment, 9th Infantry Division, and served in Vietnam from on or about 10 January 1967 – 9 January 1968. It also shows:

- item 40 (Wounds): No Entry
- item 41 (Awards and Decorations):
 - National Defense Service Medal
 - Vietnam Service Medal
 - Republic of Vietnam Campaign Medal with Device (1960)
 - Combat Infantryman Badge

c. His DD Form 214 shows he was honorably released from active duty on 1 May 1968; it also shows he completed 2 years of active service. His specialty number and title were 11C20 (Infantryman - Indirect Fire Crewman).

d. His name is not listed on the Vietnam Casualty Roster.

e. On 17 June 1999, the ABCMR rendered a decision in Docket Number AR1998014213. The Board noted there is no evidence available to the Board which shows that the applicant was awarded the Purple Heart or was wounded or treated for wounds due to hostile action. Therefore, the applicant is not entitled to the Purple Heart.

f. On 29 March 2000, the ABCMR notified the applicant by letter that his case was carefully analyzed by the staff of the Board to determine whether he had submitted any new evidence, information or argument which was not in the record at the time of the prior Board consideration. While he had detailed his contentions once again, they do not amount to new matters. Expressions of dissatisfaction with previous decisions do not warrant consideration by the Board. Accordingly, there is no basis for resubmitting his request to the Board.

4. The applicant provides:

a. Five pages of medical documents that indicate treatment for a shrapnel wound left finger on 19 December 1967 at an aid station and documents of VA rating decisions from the VA dated 15 October 1997 and 5 May 1999. The VA rating decision show:

- evaluation of post-traumatic stress disorder, which is currently 50 percent disabling, is increased to 70 percent effective 25 August 1996
- evaluation of residuals shrapnel wound, left finger (non-dominant), which is currently 0 percent disabling, is increased to 10 percent effective 21 November 1994
- service connection for hypertension is denied

b. Self-authored letter dated 13 July 1999, details the applicant disagreement with the Boards decision to his request for a Purple Heart and his medical record show that he was treated for shrapnel wound to his left index finger on 12 December 1967, the morning after combat action.

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 and available military record, the Board acknowledged the applicant's contention based on treatment for a shrapnel wound to his left finger sustained during combat operations in Vietnam in December 1967. The Board found the applicant's service record confirms his assignment to infantry units engaged in combat and reflects receipt of the Combat Infantryman Badge and Vietnam Campaign Medal, the available evidence does not meet the regulatory criteria for award of the Purple Heart.

2. The Board determined there is insufficient evidence to support award of the purple heart. Specifically, his DA Form 20 contains no entry in item 40 (Wounds), his name does not appear on the Vietnam Casualty Roster, and there is no contemporaneous documentation verifying that the injury was sustained as a direct result of enemy action. The medical treatment record provided indicates care for a shrapnel wound but does not establish the source of the injury as hostile fire. Per regulatory guidance the Purple Heart is awarded to members of the Armed Forces who are wounded or killed in action against an enemy of the United States, and the wound must have required treatment by medical personnel and be documented as having been sustained due to hostile action.

3. Additionally, the Department of Veterans Affairs rating decisions and service connection for the injury do not constitute sufficient evidence for award of the Purple Heart under Army regulations. The Board acknowledged the applicant's honorable service and the sacrifices he made; however, in the absence of official documentation confirming the wound was incurred due to enemy action, the Board found no basis to grant relief. Therefore, the request for reversal of the previous Board determination to award of the Purple Heart is denied.

BOARD VOTE:

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

BOARD DETERMINATION/RECOMMENDATION:

The Board found 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 to amend the decision of the ABCMR set forth in Docket Number AR1998014213 on 17 June 1999.

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.

REFERENCE:

Army Regulation 600-8-22 (Military Awards) provides Army policy, criteria, and administrative instructions concerning individual military decorations.

a. The Purple Heart is awarded to any member of an Armed Force 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

b. Paragraph 2-8g. provides examples of enemy-related injuries which clearly justify award of 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 explosions

c. Paragraph 2-8h provides examples of injuries or wounds which clearly do not justify award of the Purple Heart which includes:

- battle fatigue
- post-traumatic stress disorder
- mild traumatic brain injury or concussions that do not either result in loss of consciousness or restriction from full duty for a period greater than 48 hours due to persistent signs, symptoms, or physical finding of impaired brain function

d. Paragraph 2-8i states it is not intended that such a strict interpretation of the requirement for the wound or injury to be caused by direct result of hostile action be taken that it would preclude the award being made to deserving personnel.

//NOTHING FOLLOWS//