

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 March 2025

DOCKET NUMBER: AR20240007343

APPLICANT REQUESTS:

- Correction of his record to show he was awarded the Purple Heart
- A personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Orders Number M-12-505862, 22 December 2005 that ordered him to active duty in support of Operation Iraqi Freedom with a report date of 29 January 2006
- Orders Number 145-370, 25 May 2006 that assigned him to Afghanistan – Combined Joint Task Force in support of Operation Enduring Freedom with a report date of on or about 30 May 2006
- Permanent Orders Number 58-128, 27 February 2007 that awarded him the Combat Action Badge for being engaged by the enemy on 15 December 2006
- Statement of Service, 1 April 2007 that shows he was assigned to the 3rd Brigade Combat Team, 10th Mountain Division in Bagram, Afghanistan from 17 April 2006 to 16 April 2007
- DD Form 214 (Certificate of Release or Discharge from Active Duty), ending 5 June 2007
- Post-Deployment Health Reassessment, 6 January 2010 that details his health following his deployment to Afghanistan, in which he states he was exposed to a blast or explosion and a vehicular accident/crash
- Military Personnel (MILPER) Message Number 22-215 issued on 8 June 2022 that announces the Purple Heart medal eligibility for perforated eardrum wounds for personnel who served during qualifying periods
- Automated Record Brief, 26 August 2022 that captures the applicant's service, to include, awards and decorations and overseas assignments (void of award of the Purple Heart)
- Memorandum for Record, 15 October 2022 endorsed by the 63rd Readiness Division Deputy Surgeon that states the applicant's right tympanic membrane has evidence of scarring that is consistent with prior perforation, and is more than likely cause by the blast injury he sustained on 15 December 2006

- Memorandum; Subject: Incomplete Information, 15 October 2022 from the applicant that states he has made every attempt to locate medical records pertaining to his injury sustained on 15 December 2006, but to no avail
- Memorandum; Subject: Soldier Narrative, 18 October 2022 from the applicant in which he recounts the details of the enemy attack that led to his injury on 15 December 2006, while as a gunner on deployment in Afghanistan
- Witness Letter, 22 October 2022 from Dr. S- L-, in which he recounts the details of the enemy attack that led to the applicant's injury on 15 December 2006, while as the main on-call medic assigned to the Quick Reaction Force
- DA Form 2823 (Sworn Statement), 22 October 2022 authored by O- G- that recounts the details of the enemy attack that led to the applicant's injury on 15 December 2006, while as the Truck Commander
- DA Form 4187 (Personnel Action), 24 October 2022 that recommends approval of award of the Purple Heart for the applicant
- Memorandum; Subject: Request for Award of the Purple Heart (PH) for [Applicant], 18 November 2022 endorsed by the AHRC, Chief, Awards and Decorations Branch that disapproved his request for award of the Purple Heart

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:
 - Reversal of the U.S. Army Human Resources Command (AHRC) denial of award of the Purple Heart
 - he is requesting consideration and approval in accordance with MILPER Message Number 22-215 (Purple Heart for Perforated Eardrum) for retroactive purple heart, for wounds received in action on 15 December 2006
 - treatment protocols for Traumatic Brain Injury (TBI) and perforated eardrums were either not in place or very well understood during the period in which he served in combat
3. A review of the applicant's service record shows:
 - He enlisted in the Regular Army on 19 September 2000
 - Orders Number M-12-505862 dated 22 December 2005 relieved him from his USAR status and ordered him to active duty with a report date of 29 January 2006 in support of Operation Iraqi Freedom

- On 5 June 2007 he was honorably released from active duty and his DD Form 214 shows service in Afghanistan from 20 May 2006 through 15 April 2007; Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) does not show award of the Purple Heart

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the published guidance in MILPER Message Number 22-215, which permits awarding the Purple Heart for perforated eardrums (ruptured tympanic membrane) as a qualifying injury for award of the PH provided all stated documentation is provided and the applicant's application failing to have chain of command endorsement (through the first general officer in the Soldier's current chain of command for currently serving members) and a casualty report, the Board concluded there was insufficient evidence of an error or injustice warranting awarding the applicant a Purple Heart.

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 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.

//SIGNED//

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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 (AR) 15-185 (Army Board for Correction of Military Records) 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, which is that what the Army did was correct.
 - a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.
 - b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.
3. AR 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. It provides that the Purple Heart is awarded for a wound 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 a medical officer, and the medical treatment must have been made a matter of official record.

a. Examples of enemy-related injuries which clearly justify award of the Purple Heart are as follows:

(1) Injury caused by enemy bullet, shrapnel, or other projectile created by enemy action.

(2) Injury caused by enemy-placed trap or mine.

(3) Injury caused by enemy-released chemical, biological, or nuclear agent.

(4) Injury caused by vehicle or aircraft accident resulting from enemy fire.

(5) Concussion injuries caused as a result of enemy-generated explosions.

(6) 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.

b. Examples of injuries or wounds which clearly do not justify award of the Purple Heart are as follows:

(1) Frostbite (excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951).

(2) Trench foot or immersion foot.

(3) Heat stroke.

(4) Food poisoning not caused by enemy agents.

(5) Chemical, biological, or nuclear agents not released by the enemy.

(6) Battle fatigue.

(7) Disease not directly caused by enemy agents.

(8) Accidents, to include explosive, aircraft, vehicular, and other accidental wounding not related to or caused by enemy action.

(9) Self-inflicted wounds, except when in the heat of battle and not involving gross negligence.

(10) Post traumatic stress disorders.

(11) Airborne (for example, parachute/jump) injuries not caused by enemy action.

(12) Hearing loss and tinnitus (for example: ringing in the ears).

(13) 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.

(14) Abrasions and lacerations (unless of a severity to be incapacitating).

(15) Bruises (unless caused by direct impact of the enemy weapon and severe enough to require treatment by a medical officer)

(16) Soft tissue injuries (for example, ligament, tendon or muscle strains, sprains, and so forth).

(17) First degree burns.

4. MILPER Message Number 22-215 states effective immediately the U.S. Army will recognize perforated eardrums (ruptured tympanic membrane) as a qualifying injury for award of the PH provided all below listed requirements are met

- DA Form 4187 or written request (for Veterans)
- Chain of command endorsement (through the first general officer in the Soldier's current chain of command for currently serving members)
- Deployment orders
- Enlisted Record Brief
- One-page narrative describing the qualifying incident and the conditions under which the member was injured or wounded
- Statements from at least two individuals, other than the proposed recipient, who were personally present, observed the incident, and have direct knowledge of the event
- Alternatively, other official documentation may be used to corroborate the narrative
- Casualty report (if available)
- SF 600 (Chronological Record of Medical Care)
- SF Form 502 (Clinical Records), or equivalent military medical document

- DD Form 214

Commanders will consider two critical factors when considering eligibility for the PH for perforated eardrum. The two critical factors are the degree to which the enemy or hostile force caused the wound, and whether the wound was so severe that it required treatment by a medical officer.

//NOTHING FOLLOWS//