

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 March 2025

DOCKET NUMBER: AR20240007588

APPLICANT REQUESTS: in effect, reversal of the U.S. Army Human Resources Command (HRC), Awards and Decoration Branch's decision to deny him award of the:

- Combat Action Badge, and for the Board to award him this badge
- Purple Heart, and for the Board to award him this badge
- 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)
- Self-Authored Statement
- Combat Action Badge and Purple Heart Denied Email
- Sick Call Slip
- DA Form 1059 (Service School Academic Evaluation Report)
- Armor School Certificate
- Sworn Statement
- Two DD Forms 214 (Certificate of Release or Discharge from Active Duty)
- Grade Determination
- Combat Action Badge and Purple Heart Information
- Two Character Letters
- Letter (difficult to read)
- HRC Letter

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 has applied for award of the Purple Heart and decorations and now he has located a sick call slip from Camp Cropper for his injuries. They did not have the sick call slip with injuries. He has now included in the packet. Additionally, he includes more incidents and request to be awarded the Combat Action Badge. His

command was given medical documentation of incidents so he may be awarded the CAB however they threw him out of their office and just awarded themselves Bronze Star Medals. The applicant lists post-traumatic stress disorder (PTSD) and traumatic brain injury (TBI) as related to his request.

a. In his self-authored statement, undated, he states on 12 March 2009 his command told him to be ready for a mission, but he was not prepared because he did not take his rifle, he only had a 9 mm pistol, and he was on board a helicopter and taking rounds and firing. They had a high value detainee. They landed and took the detainee to medical, and the applicant was treated for black and blue bruises, cuts from taking fire inside the Blackhawk. On 20 March 2009 he asked his first sergeant/1SG if he could write himself and several other Soldiers in the unit up for Purple Heart injuries and the Combat Action badge awards the 1SG got angry. He was thrown out of the office was told sergeant first class/D7's and officers would write the awards and they wrote generic awards to them despite giving them medical documentation and his chasing a foreign national with a gun to detain him.

b. Early morning 15 March 2009 he arrived at Camp Cropper and escorted a detainee into the detention area for processing, several mortars exploded near the applicant's location, he was knocked to the ground injuring himself. The concrete walls were exploding. He had cuts and bruised and was dazed. He got up because the foreign national was on a cell phone possibly calling in indirect fire.

c. Combat Action Badge and Purple Heart Denied email, 13 May 2024, reiterates the above and reflects the applicant was being engaged by indirect fire. He attached his denial letter for both the Purple Heart and Combat Action Badge. For the Purple Heart the applicant is still trying to locate medical records in Iraq. For the Combat Action Badge, he added that he indirect fire 122mm rockets and mortars landed very close within 25 meters which caused injuries. His command saw he was already maneuvering outside and decided the applicant should go out and get the rest of their company sleeping in the barracks.

3. The applicant provides:

a. U. S. Army Armor School Graduate Certificate Mounted Officer Basic Course, 17 August 2006.

b. Sick call slip, 17 March 2009 shows injuries from explosion on 15 March 2009. Abrasions, cuts, bruises, and concussion from mortar attack/rocket attack Camp Cropper.

c. Sworn Statement of NLP\_\_\_, 15 March 2009 shows without warning the base came under attack by several indirect fire mortar and rocket rounds. NLP\_\_\_ witnessed

the rocket round land and explode roughly 15 meters from the applicant and the applicant was not injured from the blast and immediately got up from the ground and ran in the opposite direction. The applicant ran towards tent city and returned with around 15 Soldiers by his side.

d. Character letters attest to the applicant being one you can count on to make the ethical choice, regardless of the situation. Their captain asked the applicant to go out to our company building because more than 15 of their Soldiers were still asleep. The applicant ran to the building with rockets flying overhead and he came back with their company Soldiers who were still sleeping.

e. HRC letter, 19 January 2023, shows a response to the applicant request to obtain awards of the Purple Heart and Combat Action Badge for his participation in Operation Iraqi Freedom. HRC stated in order to determine eligibility for the Purple Heart medical documentation was needed. Based on the information he provided in his narrative he had not sought medical treatment immediately following the rocket attack. With respect to the Combat Action Badge the event in question does not meet the regulatory guidance for award.

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

a. Having had prior enlisted service in the U. S. Army Reserve (USAR) and the Army National Guard (ARNG), the was appointed a Reserve Commissioned Officer in the grade of second lieutenant/O1 on 17 May 2004 in the Armor branch.

b. DA Form 1059 shows the applicant completed Mounted Armor Officer Basic Course from 15 February 2005 through 17 August 2006.

c. NGB Form 22 (Report of Separation and Record of Service) shows the applicant was honorably discharged from the New Jersey (NJARNG) on 10 December 2007, at the rank/grade of first lieutenant (1LT)/O-2 by reason of termination of State appointment.

d. The applicant enlisted in the ARNG on 11 December 2007.

e. The applicant was released from active duty on 17 August 2008. His DD Form 214 shows he completed 3 years, 6 months, and 4 days net active service. Note: This period of service overlaps the previously issued DD Form 214. The DD Form 214 does not show award of the Combat Action Badge or orders for the Purple Heart.

f. The applicant was released from active duty on 5 July 2009. His DD Form 214 shows he completed 1 year and 20 days net active service. The DD Form 214 does not

show award of the Combat Action Badge or the Purple Heart. The applicant served in Iraq from 31 August 2008 through 7 June 2009.

g. DA Form 199 shows a PEB convened on 25 March 2014 and the board found the applicant physically unfit and recommended a rating of 100% and that his disposition be permanent disability retirement. His disabilities are PTSD with depression and nightmares, episodic alcohol abuse and TBI. The applicant concurred and waived a formal hearing on his case. He did not request reconsideration of his Veterans Affairs ratings.

h. Memorandum for Record, Subject: Grade Determination, U.S. Army Physical Disability Agency, 18 November 2014 shows the agency determined the highest rank in which the applicant satisfactorily served for the purpose of computation of retirement pay is first lieutenant/O2.

i. Order D 339-07, 5 December 2014 shows the applicant was released from assignment and duty because of psychical disability incurred while entitled to basic pay and under conditions that permit his retirement for permanent physical disability. Date placed on retired list: 9 January 2015.

j. NGB Form 22 shows the applicant was honorably discharged from the New Jersey (NJARNG) on 8 January 2015, at the rank/grade of sergeant/E5 by reason of placement on the permanent disability retired list.

k. The applicant applied for Combat-Related Special Compensation, 14 February 2018 and on 9 December 2022. His claim was approved on 9 December 2022 for PTSD/TBI and Tinnitus.

l. The applicant's records are void of award or Orders for the Purple Heart and the Combat Action Badge.

#### 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 request, available military records AND Human Resources Command letter, the Board determined the medical sick call slip provided by the applicant is insufficient showing the applicant received wounds caused by enemy forces that required treatment by medical personnel. The governing regulation provides that for award of the Purple Heart, evidence provided must indicate he suffered, as a result of hostile action, a concussion or TBI so disabling as 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 incident.

2.. The Board agreed the applicant’s sick call slip has no documentation showing a loss of consciousness nor that shows he was restricted from duty for a period equaling 48 hours or more. Per the regulatory guidance on awarding the Purple Heart, the applicant must provide or have in his service records substantiating evidence to verify that he was injured, the wound was the result of hostile action, the wound must have required treatment by medical personnel, and the medical treatment must have been made a matter of official record.

3. The governing regulation provides that the CAB will be announced in permanent orders. Based upon the absence of orders or sufficient documentation to show he met the criteria for award of the CAB, the Board agreed there is insufficient evidence to support the applicant’s contentions. The Board determined there was sufficient evidence to support reversal of the Army Human Resource Command (HRC) denial to award the CAB. Based on regulatory guidance, the Board found reversal of the U.S. Army Human Resources Command (HRC), Awards and Decoration Branch's decision to deny him award of the Purple Heart is without merit. Therefore, the Board denied relief.

4. 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:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	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.

[REDACTED]

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. PTSD can occur after someone goes through a traumatic event like combat, assault, or disaster. The Diagnostic and Statistical Manual of Mental Disorders (DSM) is published by the American Psychiatric Association (APA) and provides standard criteria and common language for the classification of mental disorders. In 1980, the APA added PTSD to the third edition of its DSM nosologic classification scheme. Although controversial when first introduced, the PTSD diagnosis has filled an important gap in psychiatric theory and practice. From a historical perspective, the significant change ushered in by the PTSD concept was the stipulation that the etiological agent was outside the individual (i.e., a traumatic event) rather than an inherent individual weakness (i.e., a traumatic neurosis). The key to understanding the scientific basis and clinical expression of PTSD is the concept of "trauma."
  
3. PTSD is unique among psychiatric diagnoses because of the great importance placed upon the etiological agent, the traumatic stressor. In fact, one cannot make a PTSD diagnosis unless the patient has actually met the "stressor criterion," which means that he or she has been exposed to an event that is considered traumatic. Clinical experience with the PTSD diagnosis has shown, however, that there are

individual differences regarding the capacity to cope with catastrophic stress. Therefore, while most people exposed to traumatic events do not develop PTSD, others go on to develop the full-blown syndrome. Such observations have prompted the recognition that trauma, like pain, is not an external phenomenon that can be completely objectified. Like pain, the traumatic experience is filtered through cognitive and emotional processes before it can be appraised as an extreme threat. Because of individual differences in this appraisal process, different people appear to have different trauma thresholds, some more protected from and some more vulnerable to developing clinical symptoms after exposure to extremely stressful situations.

4. The fifth edition of the DSM was released in May 2013. This revision includes changes to the diagnostic criteria for PTSD and acute stress disorder. The PTSD diagnostic criteria were revised to take into account things that have been learned from scientific research and clinical experience. The revised diagnostic criteria for PTSD include a history of exposure to a traumatic event that meets specific stipulations and symptoms from each of four symptom clusters: intrusion, avoidance, negative alterations in cognitions and mood, and alterations in arousal and reactivity. The sixth criterion concerns duration of symptoms, the seventh criterion assesses functioning, and the eighth criterion clarifies symptoms as not attributable to a substance or co-occurring medical condition.

5. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Naval Records (BCM/NR) 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 UOTHC 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.

6. 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 to 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.

7. The Under Secretary of Defense (Personnel and Readiness) issued guidance to Service DRBs and Service BCM/NRs on 25 July 2018 [Wilkie Memorandum], regarding

equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

8. Army Regulation (AR) 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. 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:

- 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 a result of an act of any such enemy of opposing armed forces;
- As a result of an act of any hostile foreign force;

b. 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.

c. A physical lesion is not required.

(1) Treatment of the wound will be documented in the member's medical and/or health record.

(2) 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.

(3) A medical professional is defined as a civilian physician or a physician extender. Physician extenders include nurse practitioners, physician assistants, and other medical professionals qualified to provide independent treatment (to include Special Forces medics). Medics (such as combat medics – military occupational specialty 68W) are not physician extenders.

(4) A medical officer is defined as a physician with officer rank. The following are medical officers:

(a) An officer of the medical corps of the Army.

(b) An officer of the medical corps of the U.S. Navy.

(c) An officer in the U.S. Air Force designated as a medical officer in accordance with Title 10, United States Code, section 101.

d. 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.

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

- Frostbite (excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951)
- Trench foot or immersion foot.
- Heat stroke
- Food poisoning not caused by enemy agents
- Chemical, biological, or nuclear agents not released by the enemy.
- Battle fatigue
- Disease not directly caused by enemy agents
- Accidents, to include explosive, aircraft, vehicular, and other accidental wounding not related to or caused by enemy action
- Self-inflicted wounds, except when in the heat of battle and not involving gross negligence
- Post-traumatic stress disorders
- Airborne (for example, parachute/jump) injuries not caused by enemy action
- Hearing loss and tinnitus (for example: ringing in the ears)
- 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
- Abrasions and lacerations (unless of a severity to be incapacitating)
- Bruises (unless caused by direct impact of the enemy weapon and severe enough to require treatment by a medical officer)
- Soft tissue injuries (for example, ligament, tendon or muscle strains, sprains, and so forth).
- First degree burns

9. Army Regulation (AR) 600-8-22 (Military Awards) provides Department of the Army policy, criteria, and administrative instructions concerning individual military decorations, Army Good Conduct Medals, service medals and ribbons, combat and special skill badges and tabs, unit decorations, trophies, and similar devices awarded in recognition of accomplishments. The Combat Action Badge (CAB) was approved on 2 May 2005, to provide special recognition to Soldiers who personally engaged, or are engaged by, the enemy. The CAB is intended to serve as a companion to the CIB (Combat Infantryman Badge) and CMB (Combat Medical Badge) to recognize the greatly expanded role of non-infantry Soldiers in active, ground combat.

a. The requirements for award of the CAB are branch and MOS (military occupational specialty) immaterial. Assignment to a combat arms unit or a unit organized to conduct close or offensive combat operations, or performing offensive combat operations, is not required to qualify for the CAB. However, the CAB is not intended to recognize Soldiers who simply serve in a combat zone or imminent danger

area. Battle participation credit alone is not sufficient; the unit must have engaged or been engaged by the enemy.

b. Award of the CAB is not automatic and will not be awarded solely based on award of the PH. Specific eligibility requirements include—

(1) May be awarded to any Soldier.

(2) A Soldier must be personally present and under hostile fire while performing satisfactorily in accordance with the prescribed rules of engagement, in an area where hostile fire pay or imminent danger pay is authorized. For all named conflicts beginning after the effective date of this publication, a Soldier must also be performing in an offensive or defensive act while participating in combat operations, engaging, or being engaged by the enemy. A Soldier must be performing their assigned duties associated with unit's combat mission in an area where hostile fire pay or imminent danger pay is authorized. The requirement for hostile fire pay or imminent danger pay does not apply to cases determined to be eligible under the conditions described in paragraph 3–8c.

(3) Soldier must not be assigned or attached to a unit that would qualify the Soldier for the CIB and/or CMB.

c. Retroactive awards of the CAB are not authorized prior to 18 September 2001. Award of the CAB is authorized for the following operations (award for qualifying service in any previous conflict is not authorized): (1) Afghanistan (OEF, 18 September 2001 to 31 December 2014; OFS, 1 January 2015 to a date to be determined); (2) Iraq (OIF, 19 March 2003 to 31 August 2010; OND, 1 September 2010 to 31 December 2011); and (3) OIR, 15 June 2014 to a date to be determined.

d. Retroactive award processing for the Combat Action Badge. The wartime command retains wartime awards approval authority for 12 months after redeployment, and can approve award of the CAB for Soldiers who deployed with their command, and qualified for, but did not receive the CAB during the deployment. Soldiers redeployed more than 12 months or reassigned to a command other than their wartime command and qualified for the CAB while deployed may request award through command channels to Commander, U.S. Army Human Resources Command. Applications for retroactive award to active duty Soldiers and RC Soldiers will be forwarded through command channels to the first general officer (for endorsement) to HRC for processing. The first general officer in the chain of command of the Soldier recommended for award of the CAB may disapprove the recommendation.

e. Retirees and veterans should address their applications to HRC for processing. The DA Form 4187 with endorsement by the first general officer is not required. All other criteria must be met. Requests for retroactive award of the CAB will not be made

except where evidence of injustice is presented. For requests submitted under paragraph 8–8g(2)(b) through (d) must include justification explaining why the CAB was not awarded in theater.

10. Army Regulation 635-8 (Separation Documents) prescribes the separation documents that must be prepared for soldiers on retirement, discharge, release from active-duty service, or control of the Active Army. It establishes standardized policy for preparing and distributing the DD Form 214. The DD Form 214 is a summary of a soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of active-duty service at the time of release from active duty, retirement, or discharge. Source documents will consist of the enlisted record brief, separation order or any other document authorized for filing in the official military personnel file. Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized); list awards and decorations for all periods of service; each entry will be verified by the Soldier's record.

11. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR.

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.

//NOTHING FOLLOWS//