

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF [REDACTED]

BOARD DATE: 12 February 2025

DOCKET NUMBER: AR20240007917

APPLICANT REQUESTS:

- award of the Purple Heart
- personal appearance before the Board

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

DD Form 149 (Application for Correction of Military Record)

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:

a. While in the Army in Vietnam, they were checking out enemy activity and they had the wrong quadrants. The mortar round fell short and injured several Soldiers in his unit, the 4th Infantry Division, including himself.

b. He is requesting a Purple Heart for his injuries because he still has shrapnel metal in his left elbow and suffers from post-traumatic stress disorder (PTSD) from this incident. He would like to be awarded the Purple Heart retroactive to 1969 -1970, when the incident took place.

3. The applicant's DA Form 20 (Enlisted Qualification Record) shows:

a. He was inducted into the Army of the United States on 1 July 1967

b. He was awarded the Military Occupational Specialty (MOS) 11B (Infantryman) in November 1969 and 13A (Field Artillery Basic) in July 1970.

c. He served in Vietnam from 29 November 1969 through 28 November 1970.

d. His units of assignment in Vietnam were:

- D Company, 1st Battalion, 8th Infantry Regiment, 4th Infantry Division, from 9 December 1969 – 26 March 1970
- A Battery, 5th Battalion, 16th Artillery Regiment, 4th Infantry Division, from 27 March 1970 – 31 August 1970

e. Item 40 (Wounds) is blank.

f. Item 41 (Awards and Decorations) does not reflect award of the Purple Heart.

4. The applicant's service records contain the following awards orders:

a. Headquarters, 4th Infantry Division General Orders Number 4980, 10 October 1970, awarded the applicant the Army Commendation Medal effective November 1970, for meritorious service in the Republic of Vietnam from November 1969 through November 1970.

b. Headquarters, 4th Infantry Division General Orders Number 5523, 31 October 1970, awarded the applicant the Army Commendation Medal for meritorious achievement in the Republic of Vietnam from 5 October 1970 through 25 October 1970.

5. The applicant's DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows:

a. He was honorably released from active duty on 21 June 1971 and transferred to the U.S. Army Reserve (USAR) Control Group (Annual Training).

b. He was credited with 1 year, 11 months, and 21 days of net active service, which includes 1 year, 6 months and 6 days of foreign service.

c. Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) shows:

- Army Good Conduct Medal
- Combat Infantryman Badge
- Army Commendation Medal
- 2 Overseas Service Bars

- National Defense Service Medal
- Vietnam Service Medal
- Vietnam Campaign Medal

6. The applicant has not provided any substantiating evidence to verify that he was wounded as the result of hostile action, the wound required treatment by a medical officer, and the medical treatment was made a matter of official record.

7. A review of the Vietnam Casualty Roster shows the applicant's name is not listed as a combat casualty.

#### 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 the available military records, the Board considered the applicant's account of being wounded in Vietnam by a misdirected mortar round that injured several Soldiers, including himself. The Board acknowledged the applicant's honorable service and his personal recollection of the incident; however, it found insufficient evidence to support award of the Purple Heart.

2. Governing regulations stipulate that, to qualify for the Purple Heart, the wound must have been sustained as a direct result of enemy action, treated by a medical officer, and documented in official records. The applicant's DA Form 20 contains no entries in Item 40 (Wounds), and Item 41 does not list the Purple Heart among his authorized awards. Furthermore, the applicant's name does not appear on the Vietnam Casualty Roster, and he has not provided medical documentation or official orders verifying treatment or recognition of a combat-related wound. In the absence of substantiating evidence, the Board agreed that the criteria for award of the Purple Heart have not been met, and therefore, relief is denied.

3. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant. 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
XXX	XXX	XXX	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

Except for the correction addressed in Administrative Note(s) below, 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 for correction of the records of the individual concerned.

X //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.

ADMINISTRATIVE NOTE(S):

A review of the applicant's records shows his DD Form 214 covering the period ending 21 June 1971, should be amended by deleting the Army Commendation Medal and the Vietnam Service Medal from item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) and adding the following to item 24:

- Army Commendation Medal with (2nd Award)
- Vietnam Service Medal with three bronze service stars
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

REFERENCES:

1. 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 Discharge Review Boards (DRBs) and Boards for Correction of Military/Naval Records (BCM/NRs) when considering requests by veterans for modification of their discharges due in whole or in part to: mental health conditions, including post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), 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, on those conditions or experiences.

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

a. The Purple Heart is awarded for a wound sustained while in action against an enemy or as a result of hostile action. Substantiating evidence must be provided to verify that 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.

b. A bronze service star is authorized with the Vietnam Service Medal for participation in each credited campaign.

3. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the awards received by units serving in Vietnam. This pamphlet shows:

a. The 1st Battalion, 8th Infantry Regiment was awarded the Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period 29 July 1969 through 10 April 1970, in Department of the Army General Orders Number 52, dated 1971.

b. The 5th Battalion, 16th Artillery Regiment were awarded the Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period 29 July 1969 through 17 November 1970, in Department of the Army General Orders Number 52, dated 1971

c. The named Vietnam Campaigns are:

(1) Vietnam Advisory Campaign, 15 March 1962 - 7 March 1965

(2) Vietnam Defense Campaign, 8 March 1965 - 24 December 1965.

- (3) Vietnam Counteroffensive , 25 December 1965 – 30 June 1966.
- (4) Vietnam Counteroffensive, Phase II, 1 July 1966 - 31 May 1967.
- (5) Vietnam Counteroffensive, Phase III, 1 June 1967 - 29 January 1968
- (6) TET Counteroffensive, 30 January 1968 - 1 April 1968.
- (7) Vietnam Counteroffensive, Phase IV, 2 April 1968 - 30 June 1968.
- (8) Vietnam Counteroffensive, Phase V, 1 July 1968 - 1 November 1968.
- (9) Vietnam Counteroffensive, Phase VI, 2 November 1968 – 22 February 1969.
- (10) TET 69 Counteroffensive, 23 February 1969 - 8 June 1969.
- (11) Vietnam Summer -Fall 1969 , 9 June 1969 – 31 October 1969.
- (12) Vietnam Winter-Spring 1970, 1 November 1969 - 30 April 1970.
- (13) DA Sanctuary Counteroffensive, 1 May 1970 - 30 June 1970.
- (14) Vietnam Counteroffensive, Phase VII, 1 July 1970 - 30 June 1971.
- (15) Consolidation I, 1 July 1971 - 30 November 1971.
- (16) Consolidation II, 1 December 1971 - 29 March 1972.

4. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. Paragraph 2-11 states applicants do not have a right to a formal hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//