

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 March 2025

DOCKET NUMBER: AR20240008224

APPLICANT REQUESTS: Award of the Purple Heart

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored letter in support of application
- Boy Scout Certificate
- Orders 023-364, dated 23 January 2003
- Medical Records
- Letter issued by Associates in Surgery and Vascular Surgery, dated 13 February 2003
- DA Form 4697 (Department of the Army (DA) Report of Survey), dated 29 September 2003
- Clothing Record, dated 29 September 2003
- Three DA Forms 2823 (Sworn Statement)
- DD Form 214 (Certificate of Release or Discharge from Active Duty), or the period ending 29 October 2003
- Permanent Orders 129-003, dated 9 May 2006
- Purple Heart narrative, dated 12 February 2024
- Joint Task Force North staff action Sheet, dated 13 February 2024
- DA Form 4187 (Personnel Action), dated 24 February 2024
- Memorandum issued by the Chief, Awards and Decorations Branch, U.S. Army Human Resources Command (HRC), subject: Request for Award of the Purple Heart, dated 2 April 2024
- DA Form 4187, dated 3 April 2024
- Officer Record Brief (ORB)

FACTS:

1. The applicant states, in effect, on 10 June 2003 he was part of a unit that received enemy fire, during flight in a military aircraft. He suffered a ruptured hernia and severe low back pain, which resulted in him being medically evacuated for treatment. His chain of command, along with HRC, denied his request for the award of the Purple Heart. He

believes the denial was as a result of his hernia was considered a preexisting condition, which is an unfair and adjust determination, as he was cleared to deploy, yet not eligible for the award of the Purple Heart. In addition, he also believes he was denied because the medical personnel that cared for him after his injury, did not properly document his treatment, which he had no control of. If his integrity is in question, he is telling the truth as he is trustworthy and an Eagle Scout. He is retiring on 5 May 2025, and due to the excruciating pain, he is no longer able to work. He is asking the Board to consider granting him the entitlements he earned on 10 June 2003.

2. The applicant provides and the service record shows:

- He enlisted in the Army National Guard (ARNG) on 22 February 2000
- He was ordered to active duty on 24 January 2003, in support of Operation Enduring Freedom (OEF)
- Letter issued by Associates in Surgery and Vascular Surgery, dated 13 February 2003, shows he was under the care of a physician for the repair of a hernia
- Medical records are available for review
- On 29 September 2003, the applicant stated under oath that he was medically evacuated from Kuwait on 2 July 2003
- On 29 October 2003, he was honorably released from active duty after 9 months, 6 days, for completion of required active service. He completed, and 2 months, 26 days of foreign service in Iraq from 7 April 2003 through 2 July 2003
- On 22 August 2003, the applicant was directed to return to Madigan Army Medical Center, in Tacoma Washington (WA), from Iraq, for the purpose of outpatient treatment and follow-up care
- On 26 September 2003, he was reassigned due to a temporary change in station (TCS) from Madigan Army Medical Center, in Tacoma WA, to the Fort Carson mobilization station, in Fort Carson, Colorado (CO)
- In a sworn statement, dated 1 May 2006, a service member states he was a passenger on a military aircraft that received enemy fire on 10 June 2006.
- In a second sworn statement, also dated 1 May 2006, the applicant was listed as a passenger on a military aircraft that received enemy fire on 10 June 2006.
- On 9 May 2006, the applicant was awarded the Combat Action Badge

- On 4 May 2007, he was appointed as a commissioned officer in the Army Reserve
- On 12 February the applicant submitted a request through his chain of command, to HRC for the award of the Purple Heart
- On 24 February the applicant's chain of command denied his request for the award of the Purple Heart
- On 2 April 2024, HRC concurred with the chain of command's decision, and also denied his request for the award of the Purple Heart
- On 3 April 2024, the applicant's request to retire on 1 May 2025, was approved
- The applicant is still serving, and assigned in Fort Bliss, Texas (TX)

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 regulatory guidance required in awarding the Purple Heart including medical documentation showing an injury was incurred as a direct relate of combat with an armed enemy and the lack of evidence in the applicant's record demonstrating that, the Board concluded there was insufficient evidence of an error or injustice warranting adding the Purple Heart.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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. 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. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

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 in the name of the President of the United States to any member of an Armed Force of the United States under the jurisdiction of the Secretary of the Army, who, after 5 April 1917, has been wounded, killed, or who has died or may hereafter die of wounds received, under any of the following circumstances:

(1) In any action against an enemy of the United States.

(2) 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.

(3) 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.

(4) As the result of an act of any such enemy or opposing Armed Forces.

(5) As the result of an act of any hostile foreign force.

(6) After 7 December 1941, pursuant to Title 10, United States Code, section 1129, as a result of friendly fire provided the member was killed or wounded in action by friendly weapon fire while directly engaged in armed conflict, other than the result of an act of an enemy of the United States, unless (in the case of a wound) the wound is the result of the willful misconduct of the member.

(7) On or after 7 December 1941, to a member who is killed or dies while in captivity as a Prisoner of War under circumstances establishing eligibility for the Prisoner of War Medal, unless compelling evidence is presented that shows the member's death was not the result of enemy action.

b. To qualify for award of the Purple Heart 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.

(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:

- An officer of the medical corps of the Army
- An officer of the medical corps of the U.S. Navy
- An officer in the U.S. Air Force designated as a medical officer in accordance with Title 10, United States Code, section 101

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

- 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
- 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

3. HRC MILPER Message Number 11-125, states the Secretary of the Army approved Army Directive 2011-07 (Awarding the Purple Heart). The directive provides clarifying guidance to ensure the uniform application of advancements in medical knowledge and treatment protocols when considering recommendations for award of the Purple Heart for concussions (including mild traumatic brain and concussive injuries that do not result in a loss of consciousness).

a. HRC verified award of the Purple Heart for a TBI injury is retroactive only to 11 September 2001 and that all requests that are not processed within theater must be processed through the peacetime chain of command. Awards of the Purple Heart for injuries incurred in a previous deployment and requests that are not processed in the combat theater must be processed through the Soldier's current chain of command to the Commander, HRC. When recommending and considering award of the Purple Heart, the chain of command will ensure the Purple Heart criteria in Army Regulation 600-8-22, paragraph 2-8, are met and that both diagnostic and treatment factors are present and documented in the Soldier's medical records by a medical officer.

b. The following non-exclusive list provides examples of signs, symptoms, or medical conditions documented by a medical officer or medical professional that meet the standard for award of the Purple Heart:

- diagnosis of concussion or mild traumatic brain injury
- any period of loss or decreased level of consciousness
- any loss of memory for events immediately before or after the injury neurological deficits (weakness, loss of balance, change in vision, praxis (i .e. difficulty with coordinating movements), headaches, nausea, difficulty with understanding or expressing words, sensitivity to light, etc.) that may or may not be transient
- intracranial lesion (positive computerized axial tomography (CAT) or magnetic resonance imaging (MRI) scan

c. The following non-exclusive list provides examples of medical treatment for concussion that meet standard of treatment necessary for award of the Purple Heart:

- limitation of duty following the incident (limited duty, quarters, etc.)

- pain medication such as acetaminophen, aspirin, ibuprofen, etc., to treat injury
- referral to neurologist or neuropsychologist to treat the injury
- rehabilitation (such as occupational therapy, physical therapy, etc.) to treat injury

d. Combat theater and unit command policies mandating rest periods or "down time" following incidents do not constitute qualifying treatment for concussion injuries. To qualify as medical treatment, this rest period must have been directed by a medical officer or medical professional for the individual after diagnosis of an injury.

e. The Purple Heart may be made for wounds (including TBI and concussive injuries) treated by a medical professional other than a medical officer, provided a medical officer includes a statement in the Soldier's medical record that the extent of the wounds was such that they would have required treatment by a medical officer if one had been available to treat them.

//NOTHING FOLLOWS//