

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 February 2025

DOCKET NUMBER: AR20240008411

APPLICANT REQUESTS: reconsideration of his previous request to be awarded the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) Rating Decision, 25 August 2006
- VA Board of Veterans Appeals decision
- Extract of an Article, Principles relating to service-connection

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Dockets Number:

AR20030093520 on 9 March 2004
AR20060015342, on 3 May 2007.

2. The applicant states he does not claim an injustice, or an error was made. He is requesting award of the Purple Heart because of the decision made by the Board of Veterans Appeals. When told by El Paso VA personnel, during a physical examination, on 9 September 2002, that he might be a candidate for this award, he made a request in September 2002. His request was denied on 30 August 2003. On 5 September 2003, he appealed the "Board's decision. On 9 June 2006, the Board of Veterans Appeals made a decision that stated, "Service connection for scar, right middle shin, residuals of shrapnel wound, was granted. The Board of Veterans Appeals went to great lengths before they made the decision that his wound is service connected. He submitted specific information about how he had gotten wounded while in Vietnam from October 1967 through October 1968. This information should be in his file. The wound was caused from grenade shrapnel. His wound is on his right leg's shin and even though it happened more than 55 years ago, the wound scar is still visible.

3. The applicant adds in a statement:

a. He does not claim that there is an injustice in his military records. He made an error 55 years ago because he did not report the grenade wound, he sustained during a firefight with the enemy. On 12 June 2003, he wrote a letter, which should be on file, and requested to be awarded the Purple Heart. On August 30, 2003, he was told that because Service Medical Records do not show evidence of a shrapnel wound, his request for the Purple Heart, was denied. Then on June 9, 2006, he was informed that the Board of Veterans Appeals had made a decision and stated, "Service connection for scar, right middle shin, residuals of shrapnel wound are granted with an evaluation of 10 percent effective August 30, 2002".

b. He hopes his letter titled "Belated Request for Consideration For Purple Heart Medal" that he wrote and sent to National Personnel Records Center, St. Louis, MO in September 2002, which should be on file, satisfies the Board. The "Purple Heart" is not listed on his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) like his other medals because he did not report his wound at the time of the incident. He was issued a DD Form 215 (Correction to DD Form 214) previously, to correct his original DD Form 214. He was with the 101st Airborne Division. He was assigned to Headquarters and Headquarters Company, 3rd Battalion, 506th Infantry. He was transferred from the 101st Airborne to Company C, 1st Battalion, 327th Infantry, as a replacement. He was wounded on or about April 1968. He does not see an injustice made against him but an error he made in not reporting the incident at the time it happened.

c. It took him more than thirty-three (33) years, after he was discharged, to register with VA. When he was informed that he could still file for the Purple Heart, even though he had been wounded more than 33 years before, he was given a copy of the TVC Journal, dated January/February 1968. It outlined how to file for the medal, and he did. He was examined and the wound was seen. An x-ray was taken of his right leg. The scar is still visible after 55 years. Today, he is making the same request that he made back in 2002, that he be awarded the Purple Heart. It has taken me these years to reapply for the award because when he learned that his wound was service connected and he asked how to apply for it, he never received an answer. He felt dejected and angry, thinking why he would be let down.

3. Review of the applicant's service records shows:

a. The applicant was inducted into the Army of the United States on 5 December 1966 and held military occupational specialty 11H, Infantry Direct Fire Crewman. The applicant also successfully completed the Basic Airborne Course.

b. He served in Vietnam from 3 October 1967 to 2 October 1968, through 4 campaigns. He was assigned as follows:

- 7 November 1967 to 10 May 1968, Headquarters and Headquarters Company, 3rd Battalion, 506th Infantry
- 11 May 1968 to 17 September 1968, Company C, 1st Battalion, 327th Infantry

c. Special Orders Number 358, issued by Headquarters, 1st Brigade, 101st Airborne Division on 24 December 1967, awarded him the Combat Infantryman Badge.

d. General Orders Number 6593, issued by Headquarters, 101st Airborne Division on 27 September 1968 awarded him the Army Commendation Medal for meritorious achievement in September 1968.

e. He was honorably released from active duty on 3 October 1968, and he was transferred to the U.S. Army Reserve Control Group. He completed 1 year, 9 months, and 28 days of active service. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows he was awarded or authorized:

- National Defense Service Medal
- Vietnam Service Medal
- Vietnam Campaign Medal
- Bronze Star Medal
- Army Commendation Medal

4. On 9 March 2004, the Board denied him award of the Purple Heart and stated although the applicant provided a detailed statement which indicates that he was wounded in April 1968 by a grenade during a firefight in Vietnam, there is no evidence of record which shows that the applicant was wounded or treated for any wounds as a result of hostile action in Vietnam. Uncorroborated statements are normally inadequate as the sole basis for an award of the Purple Heart because they do not fulfill the regulatory requirement that there be a record of medical treatment. Therefore, the Board determined that there is insufficient evidence on which to base award of the Purple Heart in this case. The Board did however add other awards to his DD Form 214. On 11 January 2005, he was issued a DD Form 215 (Correction to DD Form 214) that added awards of the:

- Good Conduct Medal
- Combat Infantryman Badge
- Parachutist Badge
- Vietnam Service Medal with four bronze service stars, the
- Valorous Unit Award
- Republic of Vietnam Civil Actions Honor Medal First Class Unit Citation
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

5. On 3 May 2007, the Board reconsidered his request to be awarded the Purple Heart. The Board stated:

a. The applicant again provided a detailed statement which indicates that he was wounded in April 1968 by a grenade during a firefight in Vietnam. As previously advised, uncorroborated statements are normally inadequate as the sole basis for an award of the Purple Heart because they do not fulfill the regulatory requirement that there be a record of medical treatment. His new statement is a reiteration of his earlier evidence.

b. Although the applicant submitted new evidence in the form of a BVA decision and a VA rating implementing the BVA's decision, this evidence does not establish entitlement to award of the Purple Heart. Operating under different law and its own policies and regulations, the VA, in its discretion may award service connection for medical conditions in accordance with its regulations. Although the applicant's new evidence was not considered in the previous decision, this recent evidence, in and of itself, is insufficient to change the previous decision.

6. Nothing in several typical sources show he was injured or wounded as a result of hostile action or that he was awarded the Purple Heart:

a. His name is not shown on the Vietnam casualty listing. This is a listing of Vietnam era casualties commonly used to verify entitlement to award of the Purple Heart.

b. His available personnel records do not contain an official Army message or a Western Union telegram notifying his next of kin of an injury or wound sustained in action. This was generally (but not always) a notification procedure for injuries at the time.

c. Item 40 (Wounds) of his DA Form 20 (Enlisted Qualification Record) does not record any wounds sustained as a result of hostile action.

d. A review of the Awards and Decorations Computer-Assisted Retrieval System, an index of general orders issued during the Vietnam era between 1965 and 1973 maintained by the U.S. Army Human Resources Command, failed to reveal any orders for the Purple Heart pertaining to the applicant.

e. His records do not contain contemporaneous medical records showing he was wounded as a result of hostile action or treatment for such injury. His Report of Medical Examination showed no evidence of treatment for shrapnel wound to the left hand.

8. By regulation (AR 600-8-22), the criteria for an award of the Purple Heart requires the submission of substantiating evidence to verify:

- the injury/wound was the result of hostile action
- the injury/wound must have required treatment by personnel
- the medical treatment must have been made a matter of official record

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 lack of evidence related in the record to a specific combat event, on a specific date, which resulted in a combat enemy, the Board concluded there was insufficient evidence of an error or injustice warranting the awarding and adding of the Purple Heart to the applicant's record.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:X	:X	:X	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.

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.

REFERENCES:

1. Army Regulation (AR) 600-8-22 (Military Awards), prescribes policies and procedures for military awards and decorations, to include the Purple Heart. 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 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. The key issue that commanders must take into consideration is the degree to which the enemy caused the injury. The fact that the proposed recipient was participating in direct or indirect combat operations is a necessary prerequisite but is not the sole justification for the award. Examples of enemy-related injuries which clearly justify award of the Purple Heart are as follows:

- Injury caused by enemy bullet/shrapnel/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

2. Army Regulation 600-200 (Enlisted Personnel Management System), chapter 9, of the version in effect at the time, stated a brief description of wounds or injuries (including injury from gas) requiring medical treatment received through hostile or enemy action, including those requiring hospitalization would be entered in item 40 (wounds) of the DA Form 20. This regulation further stated that the date the wound or injury occurred would also be placed in item 40.

4. Army Regulation 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 considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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.

//NOTHING FOLLOWS//