

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 April 2025

DOCKET NUMBER: AR20240008689

APPLICANT REQUESTS: entitlement to the Purple Heart (PH).

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

- DD Form 149 (Application for Correction of Military Record)
- Deployment Orders, 18 July 2006
- 2-page Medical Record, 13 January 2007
- 1-page PH Narrative, undated
- Memorandum for Record, Commander, Headquarters, 75th Ranger Regiment, 4 November 2023
- DA Form 2823 (Sworn Statement), 16 November 2023
- Soldier Talent Profile (STP), 21 November 2023
- Memorandum, U.S. Army Human Resources Command (AHRC), 21 June 2024
- Memorandum for Record, Applicant, 12 July 2024

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:

a. He recently applied for submission for the PH due to being shot in Baghdad, Iraq in early 2007. He was shot by a sniper at a distance of at least 300 meters. The 2nd shot fired by the sniper hit him in his side with the small arms protective insert (SAPI) plate stopping the round traveling at 830 meters per second. Initially, the only thing he cared about was staying with his platoon and not leaving them or taking days off. He sought medical attention as soon as it was available and was treated from a medical officer for the wound. The AHRC, Chief Awards Branch denied the PH due to the injury not being severe enough, but the only thing stated in Army Regulation 600-8-22 (Military Awards), paragraph 2-7, is that the injury must be treated by a medical officer. The medical report and the Chief, Awards Branch states that a contusion was present but

that it did not break his skin. He was treated with medicine and ice for swelling and dealt with rib pain for the next month due to the gun shot. He feels that the interpretation of the injury is less than was factual.

b. He believes that there is sufficient evidence that shows that he was injured by an enemy combatant from being shot. There is enough evidence to show that he was injured enough to be prioritized for medical evacuation off the battlefield for further assessment beyond being treated by a medic on the ground. A big discrepancy that he is unable to fix is getting a sworn statement from one of the two other Soldiers with him at the time, one which was the platoon medic. He cannot locate these Soldiers as he has not talked to them for over 15 years. He was able to reach out to his former platoon leader, who remembers receiving the report that he had been shot while attached to a tank company out on patrol. While he was not there for a firsthand experience, he received a firsthand report since he was the platoon leader.

3. The applicant is currently serving on active duty in the Regular Army.

4. The applicant provides, in part, a/an:

a. Medical Record, 13 January 2007, which shows he was seen for a routine appointment for a contusion with intact skin surface. Noted patient was shot in his left side plate of his outer tactical vest 2 hours ago. Patient was shot straight on, no loss of consciousness, it did not knock the wind out of him. Patient said it just shook him up pretty badly. Bullet went through the plate but stopped somewhere before hitting the applicant. No penetration to the skin. Applicant said he was having slight difficulty breathing. Did not hurt to expand his chest although 2/10 pain when pressing chest. Mild thrombotic thrombocytopenic purpura at ribs #8-10 anterolaterally. Full expansion with inspiration. Ice and non-steroidal anti-inflammatory drug (NSAID) was provided, released without limitations, follow up as needed.

b. Deployment orders, STP and PH Narrative to support entitlement to the PH.

c. Statement from the applicant's former company commander during his deployment who notes the applicant was shot in the abdomen by an insurgent. The applicant received medical care for a non-penetrative blast wound.

d. Statement from his former platoon sergeant who claims during their deployment, in effect, he was informed, while he was on a rest day, that the applicant had been hit by a round which impacted his side.

5. On 21 June 2024, the Chief, Awards and Decorations Branch, AHRC, disapproved his request for the PH for service performed in support of Operation Iraqi Freedom. After a thorough review of the information provided, the forwarded recommendation did

not meet the statutory guidance outlined in Army Regulation 600-8-22 (Military Awards), paragraph 2-7. While the applicant did have a contusion caused by direct impact of an enemy weapon, the injury was not severe enough to require treatment by a medical officer. The applicant was seen for a contusion with intact skin surface, provide ice and NSAID then released without limitations with the option to follow up as needed. In addition, the witness statement he provided was not personally present at the time of the injury.

6. On 12 July 2024, the applicant provided a rebuttal to the AHRC decision stating, in effect:

a. In regard to paragraph 2 of the denial memo, it stated that a contusion was present following the incident and that the injury was not severe enough to render the award. Army Regulation 600-8-22, paragraph 2-7 states that "the wound must have been 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". The Chief stated that he was injured and had a contusion and received treatment by a medical officer. He was given medicine to help with the pain of the gunshot to the side and was returned to duty based on how he was feeling. He believes that the opinion that the wound was not severe enough to render the PH wasn't based off the facts that he was evacuated to the nearest role 1, and that he did receive medical attention from a medical officer, and that he was given medicine for the injury that he received.

b. At the time of the injury there were two other Soldiers from his platoon with him. Those two Soldiers are unavailable to give sworn statements of the point of injury. LTC N_____ who at the time the platoon leader received a report that he had been shot and was being medical evacuated back to Forward Operating Base Falcon for further evaluation. He believes that LTC N_____’s statement serves as an eyewitness due to him being the platoon leader who received first-hand accounts of all actions and incidents within the sector.

7. Army Regulation 600-8-22 contains the regulatory guidance pertaining to entitlement to the PH and requires all elements of the award criteria to be met. There must be proof a wound was incurred as a result of enemy action, that the wound required treatment by medical personnel, and that the medical personnel made such treatment a matter of official record.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was 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 regulations. Upon review of the applicant's petition and available military records, the Board determined there was sufficient evidence to grant award of the Purple Heart. Evidence in the record show the applicant was wounded in action on 13 January 2007 while serving in Iraq. The Board found the applicant's witness statement from his former commander sufficient noting he was shot by enemy forces. Based on the evidence and regulatory guidance, the Board grant relief to award the Purple Heart.

2. The Board noted based on regulatory guidance which states, 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. A wound is defined as an injury to any part of the body from an outside force or agent sustained under one or more of the conditions listed above. A physical lesion is not required. However, the wound for which the award is made must have required treatment, not merely examination, by a medical officer. Additionally, treatment of the wound will be documented in the Service member's medical and/or health record. Award of the Purple Heart may be made for wounds treated by a medical professional other than a medical officer, provided a medical officer includes a statement in the Service member'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.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by adding to the applicant's records award of the Purple Heart.



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 600-8-22 provides Department of the Army policy, criteria, and administrative instructions concerning individual military decorations. It states the PH 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.
 - a. To qualify for award of the PH the wound must have been of such severity that it required treatment, not merely examination, by a medical officer.
 - b. 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.

c. When contemplating eligibility for the PH, the two critical factors commanders must consider is the degree to which the enemy or hostile force caused the wound and was the wound so severe that it required treatment by a medical officer.

d. Examples of enemy-related actions which justify eligibility for the PH are as follows:

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

(2) Injury caused by enemy emplaced trap, mine or other IED.

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

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

(5) Smoke inhalation injuries from enemy actions that result in burns to the respiratory tract.

(6) Concussions (and/or mild traumatic brain injury) caused as a result of enemy-generated explosions that result in 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. Some examples of injuries which do not justify eligibility for the PH are as follows:

(1) Exposure to chemical, biological, or nuclear agents not directly released by the enemy.

(2) Disease not directly caused by enemy agents.

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

(4) First degree burns.

(5) Abrasions or lacerations (unless of a severity requiring treatment by a medical officer.

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

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

f. It is not intended that such a strict interpretation of the requirement for the wound to be caused by direct result of hostile action be taken that it would preclude the award being made to deserving personnel. Commanders must take into consideration the circumstances surrounding a wound.

3. 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. 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//