

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 June 2025

DOCKET NUMBER: AR20240009847

APPLICANT REQUESTS: entitlement to the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- Orders DR-131-0008, Headquarters, U.S. Army Garrison, Fort Drum, 10 May 2012
- Memorandum, Headquarters, 98th Aviation Support Battalion, 19 February 2020
- DA Form 3881 (Rights Warning Procedure/Waiver Certificate), 26 February 2020
- DA Form 2823 (Sworn Statement), 26 February 2020
- Memorandum, Headquarters, 98th Aviation Support Battalion, 27 February 2020
- Memorandum, Headquarters, 98th Aviation Support Battalion, 4 March 2020
- Memorandum, Headquarters, 98th Aviation Support Battalion, 6 March 2020
- Memorandum, Headquarters, 101st Combat Aviation Brigade, 6 March 2020
- Memorandum, Headquarters, 101st Combat Aviation Brigade, 11 March 2020
- DD Form 2870 (Authorization for Disclosure of Medical or Dental Information, with 6 pages of Associated Records
- 7 Photographs
- Enlisted Record Brief (ERB), 20 October 2022
- Memorandum, U.S. Army Human Resources Command (AHRC), 20 March 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, he is entitled to the Purple Heart for injuries he sustained from the blast which are still a daily issue of his life. He is no longer able to fully open his mouth/jaws due to injuries sustained. Although no one witnessed physical injuries, all of the injuries sustained were internal. He consistently obtains treatment for his injuries and regularly meets with his dentist to discuss his issues. He takes prescribed medication for pain particularly at the onset of his migraines. During the

medical examination there were no x-rays or MRIs given to determine the extent of the injury. He was immediately diagnosed with Temporomandibular Joint Dysfunction (TMJ). The Soldiers who provide statements helped free them from the overturned vehicle. It was a dark night with very little visibility so witnessing injuries on those of us who were outside pulling security was nearly impossible.

3. The applicant is currently serving on active duty in the Regular Army in the rank/grade of sergeant first class (SFC)/E-7, in military occupational specialty 88M (Motor Transport Operatory).

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

a. DA Form 2823, 26 February 2020, in which the applicant states, in effect, on 28 June 2012, in Afghanistan, a possible 250lb IED detonated behind the vehicle he was sitting in striking the vehicle to his rear in the convoy. The IED pushed his vehicle forward. He exited his vehicle and assisted in removing personnel from the disabled vehicle and moving them to his vehicle. After resting overnight, he was evaluated at Combat Operation Outpost McClain for the pain in his jaw. He has suffered jaw pain ever since.

b. Memorandum for Record of a Witness Phone Interview on 4 March 2020, with JF. JF was in the truck behind the applicant. When the IED detonated, it caused a flash of light and when he regained consciousness, the applicant was carrying him out of the vehicle. The IED caused JF's vehicle to turn over. The applicant's vehicle was right in front of JF's vehicle.

c. Memorandum for Record of a Witness Phone Interview on 6 March 2020, with SFC AT. SFC AT stated he was the Convoy Commander and in the vehicle the IED hit. He recalled the applicant being in the vehicle in front of him.

d. Memorandum of the findings and recommendations of the investigation into the applicant's qualification for the Purple Heart, 6 March 2020. Of note, on 28 June 2012, the vehicle behind the applicant's vehicle was hit by an IED and turned over. The applicant's vehicle was hit by the blast too, which caused his vehicle to be thrown forward. The applicant was able to leave his vehicle and help the Soldiers in the flipped over vehicle get out. The same day, the applicant received treatment for jaw pain and continues to receive treatment to this day. He has problems with fully opening his mouth. The investigating officer (IO) believes the applicant meets the criteria for entitlement to the Purple Heart. The Brigade Judge Advocate subsequently concluded the investigation legally sufficient and recommended approval of the findings and recommendations of the IO.

e. Outpatient medical record which notes on 11 July 2012, the applicant was diagnosed with TMJ, given Naproxen 500mg and instructed to take 1 pill BID for 2 weeks. Disposition: Released Without Limitations.

f. Outpatient medical record which notes on 5 October 2012, the applicant was diagnosed with TMJ, prescribed 10mg Flexeril and instructed to take 1 pill a night for 7 days. Disposition: Released Without Limitations.

g. Deployment orders, ERB, and photographs.

5. On 20 March 2024, the Chief, Awards and Decorations Branch, AHRC, disapproved his request for the Purple Heart for service performed in support of Operation Enduring Freedom. The memorandum stated, in part, after a thorough review of the information provided, we acknowledge the findings from the IO, who notes "Army Regulation 600-8-22 (Military Awards) states that, 'In a case such as an individual injured while making a parachute landing from an aircraft that had been brought down by enemy fire; or, an individual injured as a result of a vehicle accident caused by enemy fire, the decision will be made in favor of the individual and the award will be made.'" In which [the applicant] was injured from the blast of the vehicle causing his vehicle to be pushed forward." However, the recommendation for the Purple Heart must also meet the statutory guidance outlined in Army Regulation 600-8-22, paragraph 2-7c: "To qualify for award of the Purple Heart the wound must have been of such severity that it required treatment, not merely medical examination, by a medical officer." As the injuries [the applicant] has received because of forced pressure from an improvise explosive device (IED) blast overturning the vehicle behind the vehicle he was inside of causing [the applicant] persistent jaw pain. [The applicant] then was seen 2 weeks after the incident on 11 July 2012 for jaw pain and released without limitations. He was seen again on 5 October 2012 for jaw pain and released without limitations. The witness statements provided note he was present at the IED blast; however, it does not indicate [the applicant] was injured during the blast.

6. Army Regulation 600-8-22 contains the regulatory guidance pertaining to entitlement to the Purple Heart 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 regulation. On 28 June 2012, the vehicle behind the applicant's vehicle was struck by an improvised explosive device (IED) and overturned. The applicant's vehicle was also impacted by the blast, causing it to be thrown forward. The applicant received medical treatment for jaw pain on the same day and continues to receive treatment for this condition. Army Regulation 600-8-22, paragraph 2-7c, requires that to qualify for award of the Purple Heart, the wound must be of such severity that it required treatment, not merely medical examination, by a medical officer.

2. The Board reviewed and did not concur with the memorandum from AHRC noting that the applicant's injuries, while resulting from forced pressure from an IED, did not meet the statutory threshold of severity to qualify for the Purple Heart. The Board agreed with the IO findings, sworn statements, and unit recommendation, and concluded the applicant met the requirements to be awarded the Purple Heart.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

XXX	XXX	XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by awarding him the Purple Heart for injuries sustained in action on 28 June 2012.

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. 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 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. 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.
 - 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 Purple Heart, 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 Purple Heart 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 Purple Heart 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//