

IN THE CASE OF [REDACTED]

BOARD DATE: 3 April 2025

DOCKET NUMBER: AR20240009948

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), 3 June 2024
- U.S. Field Medical Card
- Health Record – Chronological Record of Medical Car
- Hearing Test

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 on 17 October 1969, his platoon sergeant stepped on a land mine next to him. His eardrums were perforated and he was injured by dirt and shrapnel. He wishes to receive the Purple Heart for his injuries sustained due to enemy action.
3. On his DD Form 149, he annotates post-traumatic stress disorder (PTSD) is related to his request.
4. A review of the applicant's service record shows the following information:
 - a. He enlisted in the Regular Army on 26 February 1969, for a 3-year period.
 - b. The highest rank he attained was sergeant/E-5.
 - c. He served in the military occupational specialty of 11B (Light Weapons Infantryman).
 - d. He served in Vietnam from 28 July 1969 to 9 March 1971.

e. His DA Form 20 (Enlisted Qualification Record) Item 40 (Wounds) shows gunshot wound to both legs on 14 July 1970.

f. He was honorably transferred to the U.S. Army Reserve on 31 December 1971. He completed 2 years, 10 months, and 5 days of net active service.

5. The applicant's Official Military Personnel File does not contain any of the following documentation normally used to help verify entitlement to award of the Purple Heart:

- Western Union Telegrams and/or letters
- casualty feeder reports
- medical records indicating hospitalization
- orders/awards citations referencing injury or wounds
- his name is not listed on the Vietnam Casualty Roster

6. The applicant provides a U.S field medical card showing on at 1600 hours on 17 October 1969 he was diagnosed with perforated eardrum to his right ear, as part of enemy action, a health record – chronological record of medical care form showing on 17 October 1969 while in Chu Lai he was seen by the Emergency Medical Technician (EMT) for acoustic trauma, and a hearing test taken on 13 November 1969 indicating loss of hearing to right ear.

BOARD DISCUSSION:

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 review based on law, policy, and regulation. The evidence of record shows the applicant enlisted in the Army on 26 February 1969 as in infantryman and subsequently deployed to Vietnam from on or about 28 July 1969 to on or about 9 March 1971. His record contains a DA Form 20 indicating her sustained gunshot wounds to both legs on 14 July 1970. The Board determined the applicant met the criteria for award of the Purple Heart.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 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 14 July 1970.

4/16/2025

X

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 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. It provides that the Purple Heart is awarded for a wound sustained 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 a medical officer, and the medical treatment must have been made a matter of official record.

a. Examples of enemy-related injuries which clearly justify award of 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-placed trap or mine.

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

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

(5) Concussion injuries caused as a result of enemy-generated explosions.

(6) 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.

b. Examples of injuries or wounds which clearly do not justify award of the Purple Heart are as follows:

(1) Frostbite

(2) Trench foot or immersion foot.

(3) Heat stroke.

- (4) Food poisoning not caused by enemy agents.
- (5) Chemical, biological, or nuclear agents not released by the enemy.
- (6) Battle fatigue.
- (7) Disease not directly caused by enemy agents.
- (8) Accidents, to include explosive, aircraft, vehicular, and other accidental wounding not related to or caused by enemy action.
- (9) Self-inflicted wounds, except when in the heat of battle and not involving gross negligence.
- (10) Post traumatic stress disorders.
- (11) Airborne (for example, parachute/jump) injuries not caused by enemy action.
- (12) Hearing loss and tinnitus (for example: ringing in the ears).
- (13) Mild traumatic brain injury or concussions that do not either result in loss of consciousness or restriction from full duty for a period greater than 48 hours due to persistent signs, symptoms, or physical finding of impaired brain function.
- (14) Abrasions and lacerations (unless of a severity to be incapacitating).
- (15) Bruises (unless caused by direct impact of the enemy weapon and severe enough to require treatment by a medical officer).
- (16) Soft tissue injuries (for example, ligament, tendon or muscle strains, sprains, and so forth).
- (17) First degree burns.

3. MILPER Message Number 22-215 (Purple Heart for Perforated Eardrum), issued on 8 June 2022, was set to expire in 1 year after the issue date. It provided that the U.S. Army will recognize a perforated eardrum (ruptured tympanic membrane) as a qualifying injury for award of the Purple Heart provided all below-listed requirements are met.

a. Applications for award of the Purple Heart will include the following documentation pertaining to the wound and inflicting force:

(1) A DA Form 4187 (Personnel Action) for currently serving members or written request for veterans.

(2) Chain of command endorsement (through the first general officer in the Soldier's current chain of command for currently serving members).

(3) Deployment orders.

(4) DA Form 4037 (Officer Record Brief), Enlisted Record Brief, DA Form 20/2/66 (Personnel Qualification Record), or other substantiating personnel qualification records for Veterans.

(5) One-page narrative describing the qualifying incident and the conditions under which the member was injured or wounded.

(6) Statements from at least two individuals, other than the proposed recipient, who were personally present, observed the incident, and have direct knowledge of the event. Alternatively, other official documentation may be used to corroborate the narrative.

(7) Casualty report (if available).

(8) Standard Form (SF) 600 (Chronological Record of Medical Care), SF Form 502 (Clinical Records), or equivalent military medical document.

(9) DD Form 214 (Certificate of Release from Active Duty), WD Form AGO 53-55, or WD Form AGO 53-98 (Official Certificate of Release or Discharge from Active Duty) (if applicable).

b. Commanders will consider two critical factors when considering eligibility for the Purple Heart for perforated eardrum. The two critical factors are the degree to which the enemy or hostile force caused the wound, and whether the wound was so severe that it required treatment by a medical officer.

//NOTHING FOLLOWS//