

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 May 2025

DOCKET NUMBER: AR20240010218

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 statement (2)
- Purple Heart Request Packet, dated 7 November 2023
- letter, U.S. Army Human Resources Command (AHRC), Awards and Decorations Branch, dated 14 June 2024
- Department of Veterans Affairs (VA) Medical Records (13 pages), dated 25 June 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 he sustained a traumatic brain injury (TBI) as a direct result of enemy action during convoy operations in support of Operation Iraq Freedom. Following the incident, medical treatment was received at the medical triage center on base. No other medical facilities were available at the time. Due to the classified nature of the mission and the early stages of the war, no official medical documentation was presented. The witness statements he provided to AHRC corroborate his claim. He sustained a visible wound on the bridge of his nose which was treated by medics from the 10th Special Forces Group. In addition to the TBI and laceration, he sustained a perforated eardrum.

3. A review of the applicant's service record shows:

- a. He enlisted in the Army National Guard on 20 February 2003.

b. He was ordered to active duty in support of Operation Iraq Freedom, with a report date of 10 August 2005. He served in Kuwait from 8 November 2005 to 4 November 2006.

c. On 10 July 2006, he was awarded the Combat Action Badge for his actions in combat on 19 April 2006.

d. He was honorably released from active duty and returned to the control of the Wisconsin Army National Guard on 28 November 2006, by reason of completion of required active service.

e. The applicant is currently serving in the Wisconsin Army National Guard.

4. The applicant provides:

a. A DA Form 4187 (Personnel Action) dated 7 November 2023 and supporting documents, which were submitted to AHRC, to recommend him for award of the Purple Heart for injuries sustained from an Improvised Explosive Device (IED) attack while out on patrol in the vicinity of Taji, Iraq on 19 April 2006. The force of the explosion caused his head to strike his weapon, resulting in a laceration across the bridge of his nose, momentary disorientation, and a partially ruptured eardrum. No injuries were reported at the time of the incident. His TBI was diagnosed on 19 February 2022 by VA medical staff. Two additional witness statements corroborate the incident.

b. Medical documentation from the VA shows the applicant was diagnosed with a TBI and residual conditions on 19 February 2022, for which he was granted a service-connected disability rating. He has additional service-connected disability ratings for post-traumatic stress disorder, migraine headaches, and tinnitus.

c. A memorandum, from AHRC, Awards and Decorations Branch, dated 14 June 2024, shows the applicant's request for award of the Purple Heart was denied. AHRC noted his injuries were not severe enough to require additional treatment by a medical officer. Nor were they documented in his medical record until February 2022 by the VA. Therefore, AHRC could not justify an award of the Purple Heart.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not 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 as a member of the ARNG was ordered to active duty on 10 August 2005. He served in Kuwait from 8 November 2005 to 4 November 2006. The Board determined to be awarded the Purple Heart, the regulatory guidance 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. The Board did not find documentary evidence that clearly or explicitly shows criteria for award of the Purple Heart. Based on the evidence, the Board determined the applicant does not meet the criteria for award of the Purple Heart. Therefore, the Board denied relief.

BOARD VOTE:

| <u>Mbr 1</u> | <u>Mbr 2</u> | <u>Mbr 3</u> |                      |
|--------------|--------------|--------------|----------------------|
| :            | :            | :            | 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. 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 Army Board for Correction of Military Records (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.

a. 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.

b. 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.

c. When contemplating an award of the Purple Heart, 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 award.

d. Examples of enemy-related injuries that clearly justify award of the Purple Heart include concussion injuries caused as a result of enemy-generated explosions resulting in a mild (m) mTBI or concussion severe enough to cause either loss of consciousness (LOC) 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. Examples of injuries or wounds that do not justify award of the Purple Heart include PTSDs, hearing loss and tinnitus, mTBI or concussions that do not result in LOC or restriction from full duty for a period greater than 48 hours due to persistent signs, symptoms, or physical finding of impaired brain function.

f. When recommending and considering award of the Purple Heart for a mTBI or concussion, the chain of command will ensure that both diagnostic and treatment factors are present and documented in the Soldier's medical record by a medical officer.

//NOTHING FOLLOWS//