ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE: 9 April 2025

DOCKET NUMBER: AR20240010224

APPLICANT REQUESTS: in effect, award of the Purple Heart for injuries sustained from an improvised explosive device (IED) attack.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty), effective 20 January 2011.
- Enlisted Record Brief, summarizing his service, awards, and assignments
- Orders 323-353, published 19 November 2009 – mobilization orders
- Orders 346-516, dated 12 December 2009 – amended mobilization orders
- Orders CS-071-0327, published 12 March 2010 – Temporary Change of Station
- DA Form 4187 (Personnel Action) from 2nd Battalion, 233rd Regiment, to Human Resources Command (HRC), wherein the applicant's commander recommends the applicant be awarded the Purple Heart for wounds/injuries received in action
- HRC memorandum, from the HRC Awards and Decorations Branch, dated 8 July 2020, requested a medical opinion pertaining to the applicant. (No medical opinion was provided with the application)
- DA Form 2823 (Sworn Statement) from the applicant, dated 1 December 2019, which states on or about 22 September 2010, at approximately 2300 hours, while on a combat escort operation his truck was hit by a terrorist IED. He was riding as gunner in the top turret of a Mine Resistant Ambush Protected (MRAP) vehicle. The only thing he can recall about the actual blast was the moment right before it, which appeared like a large flash of light that hit him like a pulse. He blacked out, losing consciousness. When he came to, he felt like he dove off a building into concrete. He climbed back into the turret to do his job. He heard some gunfire but was not coherent enough to continue. He swapped with a crew member and tried to recover while his unit headed back to their home base. They reached home base approximately 6 hours later. In addition to severe head and body aches, he noticed a few superficial cuts and scratches to his cheek. He was evaluated at the combat hospital. The staff told him he showed signs of traumatic brain injury (TBI) and placed him on 72 hours quarters to recover.
- DA Form 2823 from Sergeant E_K_, dated 1 December 2019, which states on or about 22 September 2010, at approximately 2300 hours, while on a combat

escort operation the applicant's truck was hit by a terrorist IED. That night the applicant was serving as the crew-serve weapon gunner, riding in the top turret of an MRAP when the explosion happened. When the explosion occurred, it seemed to engulf the entire truck. Several attempts to raise the applicant on the radio were made, and finally a crew member on his truck radioed back that he was "down." After the incident was secured, the applicant came to after losing consciousness. After returning to the base, the applicant was experiencing an intense headache, nausea, and having problems seeing. They all were taken to the combat hospital for evaluation.

- DA Form 2823 from Specialist J_P_, dated 1 December 2019, which states on or about 22 September 2010, at approximately 2300 hours, while on a combat escort operation the applicant's truck was hit by a terrorist IED. That night the applicant was serving as the crew-serve weapon gunner, riding in the top turret of an MRAP when the explosion happened. After making it to home base in the morning, the applicant was feeling sick and in pain, so he was taken to the combat hospital. The rest of the squad did a battle damage assessment on the MRAP and marked blast damage to the passenger (right) side of the truck centralized right underneath the gunner's turret.
- Permanent Order 188-003, dated 7 July 2011, which shows the applicant was awarded the Combat Infantry Badge for engaging or being engaged by the enemy, on 22 September 2010
- Medical document which details an encounter on 23 September 2010, where the applicant was evaluated and treated for injury from a terrorist explosion – IED. He was placed sick in quarters following his evaluation.
- Veterans Affairs decision letters which show the applicant has an 80% combined rating evaluation for various injuries and illnesses to include post-traumatic stress disorder with Mild Neurocognitive Disorder due to TBI and TBI.

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 believes he earned a Purple Heart in Iraq in 2010, secondary to a direct IED blast to his vehicle while he was in the gunner's turret. He was treated for TBI secondary to IED exposure at a military hospital while in theater.

3. A review of the applicant's available service records reflect the following:

a. He enlisted in the Army National Guard (ARNG) on 29 June 2006.

b. He entered active duty in support of Operation Iraqi Freedom, on 5 January 2010.

c. He began service in Iraq, on or about 16 March 2010.

d. He was evaluated and treated for injury from a terrorist explosion – IED, on or about 23 September 2010.

e. He departed Iraq on or about 14 December 2010.

f. The applicant was honorably released from active duty and transferred to the control of the ARNG on 20 January 2011.

4. By regulation, mild TBI 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 do not justify award of the Purple Heart.

BOARD DISCUSSION:

1. 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 and standard review based on law, policy and regulation. 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 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.

2. Per the regulatory guidance on awarding the Purple Heart, the applicant must provide or have in his service records substantiating evidence to verify that he was injured, 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.

BOARD VOTE:

Mbr 1	Mbr 2	Mbr 3	
:	:	:	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.

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 Directive 2011-07 (Awarding the Purple Heart), dated 18 March 2011, provides clarifying guidance to ensure the uniform application of advancements in medical knowledge and treatment protocols when considering recommendations for award of the Purple Heart for concussions (including mild TBI) and concussive injuries that do not

result in a loss of consciousness). The directive also revised Army Regulation 600-8-22 to reflect the clarifying guidance.

a. Approval of the Purple Heart requires the following factors among others outlined in Department of Defense Manual 1348.33 (Manual of Military Decorations and Awards), Volume 3, paragraph 5c: wound, injury or death must have been the result of an enemy or hostile act, international terrorist attack, or friendly fire and the wound for which the award is made must have required treatment, not merely examination, by a medical officer. Additionally, treatment of the wound shall be documented in the Soldier's medical record.

b. 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 Soldier'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. A medical officer is defined as a physician with officer rank. The following are medical officers: an officer of the Medical Corps of the Army, an officer of the Medical Corps of the Navy, or an officer in the Air Force designated as a medical officer in accordance with Title 10, U.S Code, Section 101.

d. A medical professional is defined as a civilian physician or a physician extender. Physician extenders include nurse practitioners, physician assistants and other medical professionals qualified to provide independent treatment (for example, independent duty corpsmen and Special Forces medics). Basic corpsmen and medics (such as combat medics) are not physician extenders.

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

f. The following nonexclusive list provides examples of signs, symptoms or medical conditions documented by a medical officer or medical professional that meet the standard for the Purple Heart:

(1) Diagnosis of concussion or mild TBI;

(2) Any period of loss or a decreased level of consciousness;

(3) Any loss of memory of events immediately before or after the injury;

(4) Neurological deficits (weakness, loss of balance, change in vision, praxis (that is, difficulty with coordinating movements), headaches, nausea, difficulty with

understanding or expressing words, sensitivity to light, etc.) that may or may not be transient; and

(5) Intracranial lesion (positive CT or magnetic resonance imagining (MRI) scan).

g. The following nonexclusive list provides examples of medical treatment for concussion that meet the standard of treatment necessary for award of the Purple Heart:

(1) Limitation of duty following the incident (limited duty, quarters, etc.);

(2) Pain medication, such as acetaminophen, aspirin, ibuprofen, etc., to treat the injury;

(3) Referral to a neurologist or neuropsychologist to treat the injury; and

(4) Rehabilitation (such as occupational therapy, physical therapy, etc.) to treat the injury.

h. Combat theater and unit command policies mandating rest periods or downtime following incidents do not constitute qualifying treatment for concussion injuries. To qualify as medical treatment, a medical officer or medical professional must have directed the rest period for the individual after diagnosis of an injury.

3. Army Regulation 15-185 (ABCMR) paragraph 2-9 states 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.

4. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. The Purple Heart is awarded any member of an Armed Force of the U.S. who has been wounded, killed, or who has died or may hereafter die of wounds. 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. A wound is defined as an injury to any part of the body from an outside force or agent. A physical lesion is not required.

a. Treatment of the wound will be documented in the member’s medical or health record.

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 considering award of the Purple Heart for a mild TBI or concussion that did not result in the loss of consciousness, the chain of command will ensure the diagnosed mild TBI resulted in a disposition of “not fit for full duty” by a medical officer for a period of greater than 48 hours based on persistent signs, symptoms, or findings of functional impairment resulting from the concussive event.

d. For the purposes of this award, a medical professional is a civilian physician or a physician extender. Physician extenders include nurse practitioners, physician assistants, and other medical professionals qualified to provide independent treatment (to include Special Forces medics). Medics (such as combat medics) are not physician extenders.

//NOTHING FOLLOWS//