



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No. 8720-23
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 6 May 2024. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your service record, and applicable statutes, regulations, and policies, to include SECNAVINST 1650.1D, Navy and Marine Corps Awards Manual dated 17 December 1968 and SECNAV Manual 1650.1, Navy and Marine Corps Awards Manual dated 16 August 2019. The Board also considered an advisory opinion (AO) from the Navy Department Board of Decorations and Medals. Although you were offered the opportunity to provide a response to the AO, you chose not to do so.

In your petition, you request award of the Purple Heart (PH) medal for the injuries that you sustained during your combat deployment to Vietnam. Specifically, you assert that you merit the PH for an injury to your hand on 7 November 1970, after a pyrotechnic device that you were attempting to employ malfunctioned and detonated in your hand. In support of your claim, you submitted a copy of the Bronze Star Medal citation that you were awarded for your actions on 7 November 1970, copies of your previous correspondence with Headquarters, United States Marine Corps, on this matter, a rebuttal to the HQMC denial letters, and excerpts from your service medical record.

As part of the Board review process, the Navy Department Board of Decorations and Medals, reviewed your contentions and the available records and issued an advisory opinion (AO) dated

11 March 2024. The AO recommended against awarding you the Purple Heart, concluding that there is no evidence of material error or injustice. The AO also noted the previous denials of your request on 16 November 2006, 5 March 2013, 17 September 2019, 20 September 2021, and 29 August 2022, citing the same lack of evidence. The AO pointed to the requirement that “a wound for which the award is made must have required treatment by a medical officer.” A Medical Officer is defined in Title 10 and Department of Defense regulations as a physician of officer rank. The PH medal is reserved for *acute wounds* sustained at the hands of the enemy, or in the face of the enemy, which were *severe* enough to necessitate treatment by a physician. Minor injuries that either required no medical treatment at all, or could be adequately treated by self-aid, buddy aid, or by a corpsman or medic have never qualified for the PH. Nor have injuries of an accidental nature, i.e., those not directly or indirectly resulting from enemy action, normally qualified. In the absence of substantiating medical records, a Petitioner can submit “two sworn affidavits from eyewitnesses to the injury, who were present at the time of the injury and have personal knowledge of the circumstances under which the injury occurred, may be submitted for consideration.” Such statements will not automatically qualify an individual for the PH medal. The AO concluded that to grant relief “would be inconsistent with the criteria and standards applied to all other Service Members across the Military Services.”

After careful review and consideration of all of the evidence of record, the Board determined that relief is not warranted. In making this determination, the Board concurred with the AO that there was insufficient evidence that you met the requirements of the governing regulation. The Board considered your contentions and supporting information regarding why there was a 14 day delay in recorded treatment, your assertion that you did receive immediate treatment, the severity of your injury, and the circumstances of the enemy action. The Board recognized the aftermath of such a traumatic event under combat conditions; however, due to the lack of information contained within the service medical record and lack of supporting evidence, the Board deferred to the judgment of the original approval authorities. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

The Board thanks you for your faithful and Honorable service to this country.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

5/23/2024

