



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

█  
Docket No. 10066-23  
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 31 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 the Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies. The Board also considered the advisory opinion (AO) furnished by the Department of the Navy Board of Decorations and Medals and your response to the AO.

You enlisted in the Marine Corps and commenced active duty on 8 June 1965. On 7 September 1967, while participating in counterinsurgency operations in █, you received an injury to your right forefinger that was treated by a Hospital Corpsman Third Class by cleaning and dressing the wound. You were honorably discharged on 8 September 1969.

On 27 December 2016, per your request for review, Manpower Management, Military Awards (MMMA), Headquarters U.S. Marine Corps (HQMC) notified you that a review of your records failed to reveal your entitlement to the Purple Heart Medal (PH).

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case. These included, but were not limited to, your contention that you are entitled to the PH Medal, that your Sergeant Major denied you an opportunity to receive the award, and that you will file in court to get justice if your request is denied.

As part of the Board's review process, the Department of the Navy Board of Decorations and Medals reviewed your contentions and the available records and issued an AO dated 3 May 2024. The AO stated in pertinent part:

After review of the available evidence and the pertinent regulations and past practices of the Department of the Navy, we determined the Petitioner is not entitled to the PH and recommend the BCNR deny relief.

[Executive Order 11016, Award of the Purple Heart, 25 Apr 1962] required a qualifying wound both be sustained in action with the enemy, or caused by such enemy, and that it was of such severity that it required treatment by a medical officer, which is defined in law and DoD regulations as a physician of officer rank.

In Dec 2016, HQMC explicitly denied the Petitioner's request for the PH, citing a lack of evidence he ever met the criteria.

#### Analysis of the Merits of the Petitioner's Claim

- a. The Petitioner's claim is without merit.
- b. The HQMC response of 2016 (a copy of which is in the Petitioner's OMPF) accurately states there is no evidence the Petitioner ever sustained a wound that necessitated treatment by a medical officer. His own statement confirms he was treated by a corpsman, who per statute and regulation is not a medical officer.
- c. We are required to presume the official records accurate and complete, and the previous actions by the chain of command reflected due diligence and were neither arbitrary nor capricious. The Petitioner failed to present evidence sufficient to overcome the presumption.

The AO concluded, "Petitioner is not entitled to the PH and (we) found no evidence of material error or injustice. Therefore, we recommend BCNR deny relief. Were BCNR is to grant relief in this case by authorizing the PH, such action would be inconsistent with the criteria and standards applied to all other Service Members."

In response to the AO, you provided a personal statement that supplied additional clarification of the circumstances of your case.

After thorough review, the Board concluded that you do not qualify for the PH Medal. The Board concurred with the AO and determined, based on the evidence of record and your personal statement, that your wound did not meet the criteria specified in Executive Order 11016 because it was not of such severity that it required treatment by a medical officer. The Board noted, by your statement, that your injury was treated by a corpsman. Accordingly, given the totality of the circumstances, the Board determined your request does not merit relief.

The Board thanks you for your Honorable and faithful 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,

6/24/2024

