

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2011-05125
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

He be awarded the Purple Heart (PH).

APPLICANT CONTENDS THAT:

1. On 10 Jul 70, he was injured as a result of trying to open an overhead hatch aboard a C-130 cargo aircraft which was under duress while attempting to land at Cam Ranh Bay Air Base, Vietnam. He was directed to pull the overhead latch as soon as the plane touched down; however, the plane was still pressurized so he had to overexert himself to force the hatch open and he "popped a hernia."

2. His squadron was deactivated shortly after he was eligible for the award.

In support of his request, the applicant provides copies of his medical records, a personal letter, and AF Form 1042, *Medical Recommendation for Flying Duty*.

The applicant's complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

On 31 May 74, he was released from active duty. He served 20 years and 18 days of total active federal service.

The PH is awarded to members of the United States Armed Forces who have been wounded, killed or who have died or may hereafter die of wounds received in action against an enemy of the United States or opposing force as a result of an act of any such enemy or opposing armed force, an international terrorist attack or during military operations while serving as part of a peacekeeping force. A 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 Service member's medical and/or health record. Award of the PH 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 were such that they would have required treatment by a medical officer if one had been available to treat them.

The remaining relevant facts pertaining to this application are contained in the letter prepared by the appropriate office of the Air Force, which is attached at Exhibit B.

AIR FORCE EVALUATION:

AFPC/DPSIDR recommends denial. DPSIDR states they were unable to locate medical or eyewitness documentation to support the applicant's injury was the result of action involving an opposing Armed Force. Furthermore, by the applicant's own admission, he suffered his injury as a result of the aircraft's mechanical failures and not as a result of enemy action.

The complete DPSIDR evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 10 Apr 12 for review and comment within 30 days (Exhibit D). As of this date, this office has not received a response.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
3. Insufficient relevant evidence has been presented to demonstrate the existence of error or injustice. After thoroughly reviewing the evidence of record we are not persuaded that he has been the victim of an error or injustice. Therefore, we agree with the opinion and recommendation of the Air Force office of primary responsibility and adopt its rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. The personal sacrifice the applicant endured for his country is noted and our decision in no way diminishes the high regard we have for his service; however, insufficient documentary evidence has been presented to substantiate that he has a qualifying injury that

warrants award of the PH. In the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.

THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered Docket Number BC-2011-05125 in Executive Session on 10 Jul 12, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 23 Dec 11, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFPC/DPSIDR, dated 29 Mar 12.
- Exhibit D. SAF/MRBR, Letter, dated 10 Apr 12.

Panel Chair