

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01153

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

He be awarded the Purple Heart (PH) for injuries he received on 9 May 1967.

APPLICANT CONTENDS THAT:

On 9 May 1967, the aircraft that he was to pilot on a combat mission crashed on take-off.

On 8 Feb 1971, the Physical Evaluation Board found him unfit for duty by an instrumentality of war, in the line of duty, during a period of war and also was a direct result of armed conflict in action against an enemy of the United States.

He decided to submit this request at the urging of his family.

His aircraft crashed during a combat take off to destroy a North Vietnamese convoy on the Ho Chi Min trail.

He was loaded with bombs, rockets, and double fuel tanks under the wings. At 180 knots a loud explosion shook the aircraft. The left wheel came off and the out of control aircraft left the runway. The aircraft then ran through the barrier house and burst into fire.

When he pulled the egress handle all straps released except the right leg bailout strap. When he attempted to manually release the strap flames came roaring through the right side and he attempted to dive out the left side when the left wing tank exploded and covered him with burning JP-4 (Jet Propellant).

He was flown to Clark AB, Philippines and his wife was notified that his recovery was not probable.

After one week he was flown to the Brook Burn Center in Texas where wonderful doctors performed a miracle and saved his life.

One year later he was transferred to a Naval Hospital where he stayed for three years and endured over 50 surgeries. The pain he endured far surpassed the crash.

He retired in Mar 1971 with 100 percent permanent and total disability.

In support of his request, the applicant provides a personal statement, copies of AF Form 618, *Medical Board Report*, a Department of Veterans Affairs (DVA) letter, Physical Evaluation Board summary statement, PH criteria, and photographs.

His complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

The applicant was a pilot assigned to the 479th Tactical Fighter Wing, Ubon Royal Thai AFB, Thailand.

In accordance to the USAF Physical Evaluation Board summary, dated 8 Feb 1971: "On 9 May 1967 the applicant sustained severe burns when the aircraft he was to pilot on a combat mission crashed on takeoff." The summary also states, "The Physical Evaluation Board finds that his unfitness was caused by an instrumentality of war, in the line of duty, during a period of war, and also a direct result of armed conflict."

On 5 Mar 1971, he was retired by reason of "Permanent Disability," with a 100 percent disability rating. He served 18 years, 6 months and 1 day of total active service.

The PH is awarded to members of the US 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 US 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 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.

AIR FORCE EVALUATION:

HQ AFPC/DPSIDR recommends denial. DPSIDR states the documentation offered as the result of the Medical Board indicates the applicant received injuries as the result of the aircraft accident, not as a result of enemy action, which is mandatory for award of the PH. He submitted a previous request for award of the PH which was disapproved by the Purple Heart Review Board on 1 Oct 2010. No new evidence has been presented to indicate the applicant was injured as a direct result of enemy action. While it is unfortunate the applicant suffered injuries as a result of an aircraft accident while serving on Active Duty, they have determined the applicant does not meet the criteria for the award of the PH.

The complete DPSIDR evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

He was a fighter pilot for 13 years before he crashed in Vietnam. He reiterates his previous contentions regarding his aircraft crashing upon take-off for a combat mission to destroy the enemy. He has endured four years of hospitalization, over 50 surgeries and 45 years of pain, which has taken a toll. He has not weathered well but the DVA is helping him. He would like to receive proper recognition for the service and sacrifice he made. He did receive a Distinguished Flying Cross, which he can live with if the Board denies his request.

His complete submission, with attachments, is at Exhibit E.

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, the applicant's contentions, and his response to the Air Force evaluation, the Board does not find the evidence submitted sufficient to determine the applicant is the victim of an error or injustice. While the evidence provided does support the applicant was participating in a combat mission and subsequently received medical treatment after his aircraft crashed, it does not establish that the aircraft crash was a result of enemy action, which is mandatory for award of the PH. The applicant's

personal sacrifice and unselfish service to his country is noted; however, regrettably, based on the evidence provided we must conclude the applicant is not entitled to award of the Purple Heart for the incident under consideration. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the requested relief.

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 this application in Executive Session on 23 Aug 2012, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered in AFBCMR BC-2012-01153:

- Exhibit A. DD Form 149, dated 15 Mar 2012, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSIDR dated 14 May 2012.
- Exhibit D. Letter, SAF/MRBR, dated 24 May 2012
- Exhibit E. Rebuttal, Applicant, undated, w/atchs.

Panel Chair