

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

FEB 12 1999

IN THE MATTER OF:

DOCKET NUMBER: 96-03428

COUNSEL: [REDACTED]

HEARING DESIRED: No

APPLICANT REQUESTS THAT:

He be awarded the Purple Heart (PH).

APPLICANT CONTENDS THAT:

He is entitled to the award of the PH as a result of injuries he received during his six-month captivity as a Prisoner of War (POW) of the Germans. On 17 Dec 44, he was a second lieutenant assigned to the 461st Bomb Group flying out of Italy as a B-24 pilot. On that date, he was shot down by enemy fighters and anti-aircraft flack over Trencin, Czechoslovakia. He bailed out and was captured by local troops and then turned over to the SS for interrogation. He was taken to a barn at SS Headquarters and was subjected to a severe interrogation. As a result of a beating, he received severe injuries to his teeth and jaw. He was then transported to Stalag Luft 1 where he remained until his repatriation in Apr 45 and then returned to France for rehabilitation. While receiving treatment, he was informed that he was to receive the PH Medal for service-connected injuries at the hands of the enemy. He was returned to the United States in Jun 45 and has never received the PH.

Applicant's complete submission is attached at Exhibit A.

STATEMENT OF FACTS:

The applicant enlisted in the Army/Air Corps of the United States on 3 Sep 42 in the grade of private. Medical documentation reflects that on 5 Jul 43, the applicant was admitted to the hospital in Nashville, Tennessee, for a rupture (traumatic, moderately severe), and accidentally incurred an injury on 28 Apr 43 to his left knee when he was a cadet and fell down stairs.

On 9 Feb 45, a letter was forwarded to the applicant's wife indicating that he was reported by the Adjutant General as missing in action over Germany since 17 Dec 44. The letter indicated that the applicant was a pilot of a B-24 (Liberator) bomber which departed from Italy on a combat mission to Germany on 17 Dec 44. The report revealed that during this mission en route to the target, a radio message was received from applicant's bomber stating that the plane was in difficulty. Shortly afterwards, the applicant's aircraft was observed to leave the formation and disappeared from sight.

On 19 Jun 45, the War Department issued a telegram to the applicant's wife indicating that the applicant was being returned to the United States and returned to military control within the near future and would be given an opportunity to communicate with her upon arrival.

Applicant was discharged from active duty on 17 Dec 45 in the grade of second lieutenant under the provisions of Reserve Regulation 1-5 (Convenience of the Government) and transferred to the Air Force Reserves. He was honorably discharged from the Air Force Reserve on 27 Sep 65 in the grade of captain.

A Veterans Affairs (VA) rating, dated 30 Mar 92, reflects that applicant is receiving 20% disability for affective disorder, bipolar (10%) and residuals, arthrotomy, left knee (10%).

AIR FORCE EVALUATION:

The Noncommissioned Officer in Charge (NCOIC), PH Review Board, AFPC/DPPRA, reviewed this application and indicated that, to be awarded the PH, a member must provide documentation to support he was wounded as a direct result of enemy action and must have received medical treatment by medical personnel. Applicant's records and his statement reflect he was captured and held as a POW. Medical documents recorded do not support his claim. VA medical documentation reflect what the applicant has reported to them. He did not have any eyewitnesses to substantiate his claim. His records have been reviewed by the PH Review Board (PHRB) consisting of review by a senior master sergeant, chief master sergeant, major and the reviewing authority in the grade of colonel. The PHRB determined on 2 Feb 98 that the applicant did not have sufficient evidence to approve award of the PH. With the above information, DPPRA must recommend denial of the applicant's request.

A complete copy of the Air Force evaluation is attached at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant reviewed the Air Force evaluation and indicated that he is extremely disappointed in DPPPRA's recommendation to deny his application. He does not believe his statement was given the proper consideration by the reviewing board. While there were no witnesses available to document his claim, everything he indicated did in fact happen. He also feels that the provisions of Section 521 of the National Defense Authorization Act (NDAA), which extended the eligibility for the award of the PH to former POWs that were held prior to 25 Apr 62 and suffered injuries at the hands of their captors, has not been complied with.

Applicant's complete response is attached 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. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. Although the applicant has not substantiated that the wounds he received as a result of being a POW were medically treated at the time they were incurred, we find medical treatment was an impossibility due to the circumstances of his being incarcerated. We do believe, however, that he suffered injuries at the hands of his captors. Therefore, in order to offset any possibility of an injustice, we are persuaded that the applicant is deserving of the award of the PH in accordance with the provisions of the National Defense Authorization Act of 1996. In view of the foregoing, we recommend his records be corrected as indicated below.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that he was awarded the PH for wounds as a result of being a POW during the period 17 Dec 44 through Apr 45.

The following members of the Board considered this application in Executive Session on 5 November 1998, under the provisions of AFI 36-2603:

Mr. David C. Van Gasbeck, Panel Chair
Ms. Patricia D. Vestal, Member
Mr. Edward H. Parker, Member
Mrs. Joyce Earley, Examiner (without vote)

All members voted to correct the records, as recommended. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 2 May 95, w/atchs.
- Exhibit B. Applicant's Master Personnel Records..
- Exhibit C. Letter, AFPC/DPPRA, dated 3 Feb 98.
- Exhibit D. Letter, AFBCMR, dated 23 Feb 98.
- Exhibit E. Letter fr applicant, dated 10 Mar 98.



DAVID C. VAN GASBECK
Panel Chair



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

FEB 12 1999

Office of the Assistant Secretary
AFBCMR 96-03428

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] be corrected to show that he was awarded the Purple Heart for wounds as a result of being a Prisoner of War (POW) during the period 17 December 1944 through April 1945.


JOE G. LINEBERGER
Director
Air Force Review Boards Agency