RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2009-01482

INDEX CODE: 107.00

COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His records be corrected to reflect entitlement to the Purple Heart (PH).

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APPLICANT CONTENDS THAT:

He received an injury to his ears while on active duty.

In support of his appeal, the applicant provides copies of his WD AGO Form 53-55, *Enlisted Record and Report of Separation Honorable Discharge*; his *Army of the United States Honorable Discharge Certificate*; and a letter from the Department of the Army Review Boards Agency, dated 12 February 2009, requesting he provide a copy of his WD AGO Form 53-55 and containing an annotation that his records were destroyed by fire in 1973.

Applicant’s complete submission, with attachments, is at Exhibit A.

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STATEMENT OF FACTS:

The applicant’s records were apparently destroyed by fire in 1973. The WD AGO Form 53-55 furnished by the applicant indicates he entered active duty with the Regular Army on 14 July 1943 and served as an aerial engineer until being honorably discharged in the grade of sergeant on 31 January 1946. Item 32 of the WD AGO Form 53-55, Battles and Campaigns, indicates he participated in the Rome Arno, North Appenmines, Ryukyus, and Japan and China Air Offensives, and Item 34, Wounds Received in Action, indicates “None.”

In accordance with Army Regulation (AR) 600-45, *Decorations*, dated 22 Sep 43, during the period in question, the PH was awarded for wounds received in action against an enemy of the United States, or as a direct result of an act of such enemy, provided such wound necessitated treatment by a medical officer. For the purpose of awarding the PH, a wound was defined as an injury to any part of the body from an outside force, element, or agent, sustained as the result of a hostile act of the enemy, or while in action in the face of the enemy. When a person eligible for award of the PH was treated for a wound, the commanding officer of the hospital, or the medical officer who treated the wound, furnished the commanding officer of the wounded person a certificate briefly describing the nature of the wound, and certifying the necessity of treatment. In addition, a wounded soldier’s unsupported statement could be accepted in unusual or extenuating circumstances when, in the opinion of the officer making the award, no corroborative evidence was obtainable. However, the statement would be substantiated if possible.

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AIR FORCE EVALUATION:

AFPC/DPSIDR recommends denial of the requested relief as the applicant did not provide an eyewitness statement, medical documentation, or an exact date of the injury.

The Purple Heart Review Board (PHRB) has the authority, on behalf of the Secretary of the Air Force, to determine a veteran’s entitlement to the PH. Each request is considered based on the policies and criteria in use at the time the veteran was injured, and the determination is dependent on the documentary evidence presented. In order for the applicant’s case to be presented to the PHRB, it must contain a detailed personal account of the circumstances surrounding his injury, to include specifics as to how he was injured as well as other required, detailed information; if possible, an eyewitness account from an individual who saw him injured and can attest to the circumstances surrounding his personal account; and medical documentation to substantiate he received medical treatment, or a statement from a medical officer (military or civilian) attesting that an examination revealed that an injury of the type he incurred would, or should have, received medical treatment. Statements from individuals not substantiated by either medical or official records will not be considered sufficient evidence of wounds, and entries on Reports of Separation are not considered official. Additionally, service-connected conditions noted by the Department of Veterans Affairs (DVA) must have been a direct result of the enemy and meet PH criteria as not all service-connected conditions were caused by the enemy.

The AFPC/DPSIDR evaluation is at Exhibit C.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A complete copy of the evaluation was forwarded to the applicant on 10 July 2009, for review and comment, within 30 days. However, as of this date, no response has been received by this office.

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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 probable error or injustice. We are not unmindful or unappreciative of the applicant's service to our Nation; however, after thoroughly reviewing the evidence of record and noting his contentions, 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 the applicant has not been the victim of an error or injustice since there is no medical documentation of treatment in a field hospital of any injuries sustained as a direct result of enemy action and the applicant did not provide the required documentation to make a determination. In this respect, we note the regulation governing award of the PH requires documentation to support a member was wounded as a direct result of enemy action and the member received medical treatment by medical personnel. If the applicant can provide such evidence, we will reconsider his application. Therefore, in the absence of evidence to the contrary, we find no compelling basis to recommend granting the relief sought in this application.

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THE BOARD DETERMINES THAT:

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

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The following members of the Board considered Docket Number BC-2009-01482 in Executive Session on 17 September 2009, under the provisions of AFI 36-2603:

Mrs. Charlene M. Bradley, Panel Chair

Mr. Steven A. Cantrell, Member

Mr. Alan A. Blomgren, Member

The following documentary evidence was considered in BC-2009-01482:

Exhibit A. DD Form 149, dated 12 Dec 08, w/atchs.

Exhibit B. Applicant's Available Master Personnel Records.

Exhibit C. Letter, AFPC/DPSIDR, undated.

Exhibit D. Letter, SAF/MRBR, dated 10 Jul 09.

CHARLENE M. BRADLEY

Panel Chair