

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-02887
COUNSEL: NONE
HEARING DESIRED: NOT INDICATED

APPLICANT REQUESTS THAT:

He be awarded the Purple Heart (PH) with one oak leaf cluster (PH w/1OLC).

APPLICANT CONTENDS THAT:

He did not receive all his medals. He was a Jewish Prisoner of War (POW) and should get a PH for injuries he sustained as the result of being hit in the neck by German guards. In this respect, he contends the following:

1. He saved a POW from being "beat up" by German guards. He told the guard the POW was "crazy." Subsequently, the POW was killed by the guards when he tried to escape from the hospital.
2. He walked through the Australian Alps for 18 days (approximately 220 miles) and was liberated by General Patton's tank corps. He was "boxed" in Camp 17B, dug tunnels 15 feet under the barracks, and should be awarded a medal for trying to escape.
3. He served in the beginning of two wars (1938/1945) and was a POW from 1943 until 1945. If it had been discovered that he was Jewish, he would have been put in a Jewish camp. He is willing to take a lie detector test.
4. He captured a German soldier, put him in the POW line and sold his P-38 Luger for 5,000 Francs.

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

STATEMENT OF FACTS:

On 3 February 1941, the applicant entered active service.

He was shot down during a combat mission, captured and held as a POW in Austria from 10 July 1943 to 2 May 1945.

On 13 October 1945, the applicant was honorably discharged from the Army of the United States, Air Corps, for Convenience of the Government. He served 3 years, 7 months and 10 days of total active service and is credited with 1 year and 1 month of Foreign Service.

AFPC/DPPRA notified the applicant they were able to verify his entitlement to the PH for an injury to his left hand due to flak.

POLICY AND LAW:

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.

In 1996, PH policy was revised to expand eligibility to servicemembers who are injured, wounded, or die in captivity, while a qualifying POW, as determined by their eligibility to wear the POW Medal. For those who die in captivity their death must have been the result of enemy action, or the result of wounds incurred in action with the enemy during capture, or as a result of wounds incurred as a result of enemy action during capture; unless compelling evidence is presented to the contrary. The revised policy is retroactive to 7 December 1941.

AIR FORCE EVALUATION:

AFPC/DPSID recommends denial. DPSID states the applicant was unable to provide any dates of the injuries, medical documentation, or witness statements to fulfill the criteria for award of the PH w/1OLC. To grant the applicant relief would be contrary to the eligibility criteria established by Department of Defense Manual 1348.33, *Manual of Military Decorations and*

Awards. The PH Review Board 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.

On 21 December 2012, the PH Review Board considered and denied the applicant's request for award of the PH w/10LC.

The complete DPSID evaluation, with attachment, is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 8 February 2013, 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 and noting the applicant's contentions, we find that he has not met his burden of proving that he should be entitled to an additional PH for injuries he sustained as the result of being hit in the neck by German guards while held as a POW. The applicant's personal statement is duly noted; however, his Report of Separation issued in conjunction with his 13 October 1945 separation, indicates the only wound he received in action was to his left hand when it was hit by flak while on a combat mission over France. The personal sacrifice the applicant endured for our nation 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 is entitled to an additional PH. In view of the above and 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-2012-02887 in Executive Session on 28 March 2013, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 26 June 2012, w/atchs.
- Exhibit B. Applicant's Master Personnel Records
- Exhibit C. Letter, AFPC/DPSID, dated 25 January 2013, w/atch.
- Exhibit D. Letter, SAF/MRBR, dated 8 February 2013.

Panel Chair