



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 501-01
5 April 2001

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C.1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, applied to this Board requesting, in effect, that he be awarded the Purple Heart Medal.

2. The Board, consisting of Messrs. Swarens, Lightle, and Carlsen reviewed Petitioner's allegations of error and injustice on 4 April 2001 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application to the Board was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Marine Corps on 19 January 1948 for three years at age 18. At the time of his enlistment, he had completed five years of formal education and attained test scores which placed him in Mental Group IV. Petitioner was advanced to PFC (E-2) on 5 April 1948.

d. Petitioner's record reflects that he participated in the assault and seizure of Inchon, Korea from 15-16 September, the capture and securing of Seoul, Korea from 17 September to 7 October, the Wonsan-Hungnam-Chosin Campaigns from 28 October to 13 December 1950, and began operations against enemy forces in South and Central Korea on 16 December 1950. He was promoted to CPL (E-4) in May 1951.

e. On 6 August 1951, Petitioner suffered fractures to his neck, upper right arm and wrist when the building he was sleeping in collapsed and timbers fell on him. The following day, he was transferred for treatment from a field hospital to the hospital ship, USS HAVEN. Thereafter, he was medically evacuated to a hospital in the United States since more than 120 days of hospitalization would be required. He was ultimately transferred to the Naval Hospital in Memphis on 19 September 1951. Petitioner was honorably discharged on 25 January 1952.

e. Petitioner states to the effect that the building he was in was near the front line and he was "knocked out" when it collapsed. His buddies put him on a stretcher and transferred him to a field hospital. He states that he had always been under the impression that the building collapsed because of a storm. However, at a "Chosin Few" reunion, he learned that the building collapsed after a direct hit by enemy shells. He provides a statement from a former sergeant with whom he served who states as follows:

On an evening in August 1951, the enemy shelled our position with artillery. The shells made a direct hit on a building causing it to collapse. (Petitioner) was inside the building at the time. He received injuries to his arm and his shoulder was broken. He was placed on a stretcher and sent back to the field hospital. We lost contact with each other at this time until forty years later at a reunion.

It was only during a Chosin Few reunion in 1991 that I enlightened (Petitioner) that when he was injured I was the one that helped to pull him out of the shelled building.

We also discussed how he became injured. (Petitioner) told me that he was given a Purple Heart while still in the hospital but he thought that he was injured because the building had collapsed due to the weather and he refused the medal...

f. The Navy and Marine Corps Awards Manual provides that in order to be eligible for the Purple Heart Medal, an individual must have been wounded or received injuries as a direct, or indirect result of action against an enemy of the United States. Additionally, the wound or injuries must have required treatment by a medical officer.

g. At enclosure (2), an advisory opinion from the Personnel Management Division, Headquarters, Marine Corps (HQMC) recommends that Petitioner be awarded the Purple Heart Medal for his injuries on or about 6 August 1951 while serving in the Republic of Korea. The opinion notes that Petitioner has requested review of his eligibility for the Purple Heart on numerous occasions over the past ten years. However, there was no corroborating evidence that he was injured in a manner consistent with the required criteria to be eligible for this medal. In cases of this type, at least two eyewitness statements are required to corroborate the manner in which an individual was wounded. Petitioner has only been able to find one eyewitness who can substantiate his account. Since one eyewitness statement fails to meet the criteria that is imposed on all other Marines, HQMC has denied Petitioner's requests. However, since Petitioner's story as to the nature of how he was injured has consistently remained the same for over the decade, the Head of the Awards Branch, HQMC, believes the injuries were incurred in a manner that is consistent with the awarding of the Purple Heart.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board found the eyewitness statement in this case to be credible. It corroborates Petitioner's contention that his injuries were the result of enemy action. The Board believes that requiring a second witness statement would be unjust and serve no useful purpose. Therefore, The Board substantially concurs with the comments and

recommendation of the advisory opinion that Petitioner be awarded the Purple Heart Medal.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was awarded the Purple Heart Medal for injuries sustained as result of enemy action on 6 August 1951.

b. That Petitioner be issued the Purple Heart Medal and that his DD Form 214 be corrected to reflect the award of the medal.

c. That a copy of this Report of Proceedings be filed in the record.

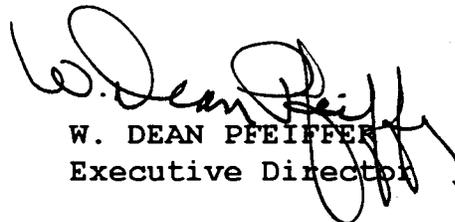
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6 (e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director