



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

██████████
Docket No. 5996-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████,
USN, XXX-XX-██████████

Ref: (a) 10 U.S.C. § 1552
(b) 10 U.S.C. § 1130
(c) SECNAVINST 1650.1J, Department of the Navy Military Awards Policy,
29 May 2019

Encl: (1) DD Form 149 w/attachments
(2) State of ██████████ Certification of Death, issued 1 July 2010
(3) Honorable Discharge Record
(4) Subject's Commendation,
(5) ██████████ 7 April 1943 Muster Roll, prepared by naval historian ██████████
██████████ October 2000
(6) NPC Letter 5730 Ser 00LCF 14U002746B, 3 February 2015
(7) CORB Memo 1650 NDBDM, subj: Advisory Opinion ICO [Subject],
22 December 2022
(8) Petitioner's Letter, RE: Response to 22 Dec 22 Advisory Opinion ICO [Subject], 8
February 2023, with enclosed letter to ██████████ Re: Application
for a Bronze Star Medal for [Subject], 21 January 2023
(9) Executive Order 9419, 4 February 1944

1. Pursuant to the provisions of reference (a), the Subject's son, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records, hereinafter referred to as the Board, requesting that the Subject's naval record be correct to reflect that he was awarded the Bronze Star Medal (BSM) with a "V" Device (for Valor),¹ in recognition of his meritorious service onboard the ██████████ on 7 April 1943.²

2. The Board reviewed Petitioner's allegations of error or injustice on 24 February 2023 and, pursuant to its regulations, determined that the corrective action indicated below should be taken the Subject's naval record. Documentary material considered by the Board consisted of the enclosures, relevant portions of the Subject's naval record, and applicable statutes, regulations, and policies.

¹ Petitioner alternatively requested that the Subject's naval record be corrected to reflect that he was awarded the BSM without the "V" Device if the Board determines that award of the device is not justified.

² The Subject died on 23 December 1997 at the age of 83. See enclosure (2).

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3. The Board, having reviewed all of the evidence of record pertaining to Petitioner's allegations of error or 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 enclosure (1) was not filed in a timely manner, it is in the interests of justice to waive the statute of limitations and review Petitioner's application on its merits.

c. The Subject enlisted in the Navy and began a period of active duty service on 1 September 1942. See enclosure (3).

d. On 22 December 1942, the Subject reported onboard the [REDACTED]
[REDACTED] See enclosure (4).

e. On 7 April 1943, the [REDACTED] was sunk by Japanese dive bombers off of [REDACTED] in the [REDACTED]. The Subject was among the 71 enlisted crew members who were wounded in this attack. See enclosure (5).

f. The Subject was subsequently "[c]ommended for meritorious action in Battle with Japanese Air Force off [REDACTED] while serving on board [the] [REDACTED] on 7 April 1943 by the ship commander. See enclosure (4).

g. On 9 April 1943, the Subject was received onboard the [REDACTED] for transport to U.S. Navy Mobile Hospital [REDACTED] in [REDACTED] where he was received on 13 May 1943. See enclosure (4).

h. On 10 September 1943, the Subject was honorably discharged from the Navy. See enclosure (3).

i. On 18 March 2014, the Subject was awarded the Purple Heart Medal for the wounds he suffered on 7 April 1943.³ See enclosure (6).

j. On 17 June 2014, the staff of Petitioner's senator sent a letter to the Navy inquiring about his request that the Subject be awarded the BSM. By letter dated 3 February 2015, Navy Personnel Command informed the senator's staff in a letter that a review of the Subject's naval record failed to document that he was ever recommended for or awarded the BSM, but that it may be possible to consider the Subject for such an award if it was requested and forwarded through the senator's office in accordance with reference (b). See enclosure (6).

k. Petitioner contends that the Subject should be awarded the BSM with "V" Device because the commendation that he received for his actions onboard the [REDACTED] matches the criteria for this award. The BSM was established by Executive Order on 4 February 1944, but eligibility was made retroactive to 7 December 1941. As the Subject had already been

³ Petitioner originally requested award of the Purple Heart Medal and the BSM from this Board in September 2013, but was instructed to first exhaust his administrative remedies. See enclosure (1).

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honorably discharged as of the establishment of the BSM, his qualifying meritorious actions were overlooked for nomination of the award. In support of his claim that the Subject should be entitled to the BSM with "V" Device, Petitioner provided several other BSM certificates to demonstrate the similarity in the commendation that he received from the [REDACTED] [REDACTED] to other actions which have since been deemed worthy of the award.⁴ See enclosure (1).

l. By memorandum dated 22 December 2022, the President, Navy Department Board of Decorations and Medals (NDBDM), provided an advisory opinion (AO) for the Board's consideration, which found that the Subject was not entitled to the BSM and recommended disapproval of the Petitioner's request. The AO first suggested that Petitioner has not technically exhausted his administrative remedies under reference (c), but acknowledged that it was unlikely that there are any living World War II veterans with standing to initiate an official BSM nomination or to provide supporting eyewitness testimony. Next, the AO states that Petitioner's claim that the commendation received by the Subject matches the published criteria for award of the BSM is false. Not only did the 7 April 1943 commendatory entry in the Subject's record not meet the criteria for the BSM, but it also failed to meet the criteria for the next lower award of the Commendation Ribbon.⁵ In accordance with the guidance in place at the time, nominations for the BSM must have been initiated by a commissioned officer, entered into official channels, and routed to the commander with authority to approve that decoration. The same guidance further provided that the Commendation Ribbon was authorized for Letters of Commendation which had been signed by either the Secretary of the Navy (SECNAV), the Commander in Chief (CINC) U.S. Fleet, or the CINC U.S. Pacific Fleet prior to 11 January 1944. As the Subject's commendation was signed only by his ship commander, it did not qualify for award of the Commendation Ribbon. The NDBDM AO considered the exact wording of his commendation to be irrelevant, since the commander who issued it lacked the authority to award the BSM or any other personal decoration, and suggested that Petitioner's argument would require issuance of the Navy Cross any time that a commander without authority to issue the award happened to use the words "extraordinary heroism" in a written commendation. Finally, the AO noted that the commendatory entry in the Subject's record lacked sufficient detail regarding his actions on 7 April 1943 to even permit reconsideration of a personal decoration. The NDBDM cross-referenced the names of the Subject's fellow crew members onboard the [REDACTED] listed in enclosure (5), and found only one personal decoration awarded.⁶ See enclosure (7).

m. By letter dated 8 February 2023, Petitioner provided a response to the AO discussed in paragraph 3l above.⁷ He asserted that the AO "erred, and committed an abuse of discretion, in failing to respond to, or address in any way, the evidence and argument set forth... in [his] application... that given the unique circumstances of this case [his commander's] April 7, 1943 commendation should be treated as the equivalent of a formal recommendation for a Bronze

⁴ Among the sample BSM with "V" Device certificates provided by Petitioner for comparison was that received by then-Major [REDACTED] for his "exceptionally valorous and meritorious service during combat operations" while in command of the 101st Airborne Division in Operation Iraqi Freedom. Petitioner suggests that the Subject's case for award of the BSM with "V" Device was at least as strong, if not more so, than that for General [REDACTED] because the Subject was exposed to personal hazard due to direct hostile actions.

⁵ This award has evolved into the current Navy and Marine Corps Commendation Medal.

⁶ This decoration was awarded to the ship commander.

⁷ Petitioner's response was in the form of a letter that he wrote to a Member of Congress who had previously provided guidance in his efforts to secure the BSM for the Subject

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Star.” In response to the AO’s comment that there was insufficient detail of the Subject’s actions on 7 April 1943 to support award of the BSM, Petitioner noted that the ship commander was very busy on that day, and the fact that he took time out in the midst of a rescue operation to write a commendation implies that the Subject must have displayed an impressive act of valor in the face of enemy fire. Petitioner also asserted that the AO erred and committed an abuse of discretion in finding the content of the BSM citations provided for comparison to be irrelevant, as the certificate awarded to ██████████ did not describe any direct combat action to justify the “V” device like that in which the Subject was engaged. Finally, Petitioner claimed that the AO and the record in this proceeding suggests a bias in favor of awards to officers and against lower ranking enlisted members such as the Subject, and provided commentary suggesting that the BSM has been “watered down” since its creation in 1944. See enclosure (8).

n. President Roosevelt established the BSM by Executive Order dated 4 February 1944, “for award to any person who, while serving in any capacity in or with the Army, Navy, Marine Corps, or Coast Guard of the United States on or after December 7, 1941, distinguishes, or has distinguished, himself by heroic or meritorious achievement or service, not involving participation in aerial flight, in connection with military or naval operations against an enemy of the United States.” See enclosure (9).

MAJORITY CONCLUSION:

After careful review and consideration of all of the evidence of record, the Majority of the Board found the existence of an injustice warranting partial relief.

The Majority found insufficient evidence to support award of the BSM, with or without the “V” Device. Petitioner has provided no evidence of what specific actions that the Subject took on 7 April 1943. Accordingly, the Majority had no basis upon which to assess his worthiness for this prestigious award. The Majority acknowledges that it is possible that the Subject may have engaged in meritorious and/or valorous actions which would warrant the decoration on 7 April 1943, but it simply has no way to know that. It is an unfortunate reality that such actions often are overlooked in the aftermath of combat operations. The Majority also acknowledges that the ship commander likely had many other duties to attend to on 7 April 1943, but Petitioner’s assumption that this entry was actually made on that date reflects a misunderstanding of how such entries were made since the entry almost certainly was not made on that date as the ██████████ was sinking. As such, the Majority was not willing to make the assumption, encouraged by Petitioner, that the ship commander’s actions implied particularly meritorious or valorous conduct under fire by the Subject. Rather, if the Subject’s conduct on 7 April 1943 stood out among his peers as particularly noteworthy and/or valorous, the Majority found it likely that the ship commander would have entered a more descriptive commendation in the Subject’s record when time permitted. The “boilerplate” language used by the ship commander in the Subject’s commendation suggested instead that the Subject’s conduct on that date was consistent with the meritorious conduct exhibited by the entire crew under adverse circumstances.

The Majority also found no merit in Petitioner’s contention that the commendation language in the Subject’s record is consistent with, or more worthy than, the BSM certificates that he

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provided for comparison, to include that of General Petraeus. This argument also reflects a misunderstanding by the Petitioner of how individuals are nominated for such awards and how approved nominations are published. The actual conduct which forms the basis of such awards are included on a separate nomination form, along with a usually lengthy narrative statement describing the actions which justify the award. The specific acts detailed in such nominations are not necessarily included on the certificate which commemorates the award, which are limited in space for such content. As such, the certificates that Petitioner included and referenced in his application do not provide a suitable basis for comparison, as they, like the Subject's 7 April 1943 commendation, do not detail the specific actions justifying the award. As such, Petitioner's contention that these subsequently awarded BSMs demonstrate the Subject's worthiness for the award is without merit.

Although the Majority found insufficient evidence to warrant the BSM, with or without the "V" Device, it did find authorization for the Commendation Ribbon to be warranted in the interests of justice. Although the Majority has no way to know the specific details of the Subject's actions when the [REDACTED] was attacked by Japanese Air Forces on 7 April 1943, it does know that his actions on that date were sufficiently meritorious to warrant commendation by the ship commander and that he suffered injuries in the attack of such severity to warrant his medical evacuation and subsequent medical discharge. It also knows that the only recognition that the Subject received for his actions on that day was the commendation in his record, which is not known to anyone. While the Majority acknowledges that AO's comment that the Commendation Ribbon was only authorized for letters of commendation signed by the SECNAV, CINC U.S. Fleet, or CINC U.S. Pacific Fleet prior to 11 January 1944, and that the commendation signed by the [REDACTED] commander therefore did not qualify, it nonetheless found that the 7 April 1943 commendation provided sufficient evidence of meritorious conduct under enemy fire to warrant issuance of the Commendation Ribbon. The Majority believed that the level of command signing such a commendation should not serve as a barrier to publically recognizing such conduct under the circumstances.

MAJORITY RECOMMENDATION:

In view of the above, the Majority of the Board recommends that the following partial corrective action be taken on the Subject's naval record:

That the Subject's naval record be corrected to reflect his authorization to wear the Commendation Ribbon for his meritorious conduct in combat action against Japanese Air Forces off [REDACTED] on 7 April 1943 while serving on board [REDACTED]. This includes issuance of an appropriate certificate commemorating such award.

That a copy of this record of proceedings be filed in the Subject's naval record.

That no further corrective action be taken on the Subject's naval record.

MINORITY CONCLUSION:

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Upon careful review and consideration of all of the evidence of record, the Minority of the Board found insufficient evidence of any error or injustice warranting relief.

The Minority concurred with the Majority conclusion regarding the insufficiency of evidence of the Subject's conduct on 7 April 1943 to justify award of the BSM, with or without the "V" Device. However, the Minority disagreed with the Majority conclusion that authorization for the Commendation Ribbon was warranted under the circumstances. Specifically, the Minority believed that there simply was insufficient information regarding the Subject's specific actions or conduct on 7 April 1943 to justify this relief. Like the Majority, the Minority recognized that it is possible that the Subject may have engaged in meritorious and/or valorous actions on 7 April 1943 that have gone unrecognized due to circumstances beyond his control. However, the Minority did not find it appropriate to authorize the issuance of an award without at least some indication of the conduct which would warrant it. The Minority also did not believe the interests of justice to be served by issuing such a decoration to the Subject due to the Petitioner's tireless efforts, while the remaining 262 officers and crew members onboard the [REDACTED] that day remain unrecognized (apart from the commander). While it is unfortunate that worthy actions may go unrecognized, that is not an uncommon occurrence and the Minority was unwilling to vote in favor of recognition for actions which are supported only by speculation. Accordingly, the Minority agreed with the AO conclusion that relief should be denied.

MINORITY RECOMMENDATION:

In view of the above, the Minority of the Board recommends that no corrective action be taken on the Subject's naval 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 titled matter.
5. The foregoing action of the Board is submitted for your review and action.

3/31/2023

[REDACTED]

Executive Director

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ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

- MAJORITY Recommendation Approved (Partial Relief – I concur with the Majority conclusion and therefore direct the corrective action recommended by the Majority above.)
- MINORITY Recommendation Approved (Deny Relief – I concur with the Minority conclusion and therefore direct that no corrective action be taken on the Subject’s naval record.)
- Petitioner’s Request Approved (Full Relief – I do not concur with the Board or the AO, and believe that issuance of a BSM (with “V” Device) is warranted for the Subject’s actions onboard the [REDACTED] on 7 April 1943. Accordingly, I direct that the Subject’s naval record be corrected to reflect his authorization to wear the BSM (with “V” Device), and that the Petitioner be provided with an appropriate certificate memorializing this award.
- Petitioner’s Alternative Request Approved (Partial Relief – I do not concur with the Board or the AO, and believe that issuance of the BSM is warranted for the Subject’s actions onboard the [REDACTED] on 7 April 1943. However, insufficient information regarding the Subject’s actions was provided to establish that his actions were valorous and therefore warranted authorization for the “V” Device. Accordingly, I direct that the Subject’s naval record be corrected to reflect his authorization to wear the BSM (without the “V” Device), and that Petitioner be provided with an appropriate certificate memorializing this award.

4/18/2023

[REDACTED]

Assistant General Counsel (M&RA)

Signed by: [REDACTED]