

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 31 October 2022

DOCKET NUMBER: AR20210014791

APPLICANT REQUESTS: upgrade of his late uncle's (a former service member (FSM)) award of the Distinguished Service Cross to a Medal of Honor.

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record), 1 September 2021
- Self-authored letter, 12 June 2021
- FSM's Birth and Death Certificates
- FSM's Report of Burial
- Certified copy of Birth Record of Applicant
- FSM's Enlistment Record
- Report from Combat Studies Institute USACCAC, Moselle River Crossing, 5th Infantry Division, September 1944, FSM information on pages 43-50
- DD Form 1473 (Report Documentation Page)
- General Orders Number 97, 24 November 1944
- Distinguished Service Cross Citation
- Distinguished Service Cross Certificate
- Letter from FSM to his parents, 2 December 1944
- Several newspaper articles
- Map from the News of the Week in Review
- Detroit News War Page, 6 Feet, 7 Inches of Yank Hero Defies Nazi Shells in Rescue
- YouTube link to a video titled, "French Honor American Heroes,"
<https://m.youtube.com/Watch?v=KeBfzzo04>
- War Department Battle Casualty Report, 4 November 1945
- FSM's WD AGO Form 52-1 (Honorable Discharge from the Army of the United States), dated 18 December 1944
- Certificate issued by President E_____ upon the FSM's death
- several Books
- several photographs of the FSM
- two letters addressed to B_____ W_____ from LTC R_____ D_____, 30 May 1991
- Letter from J_____ P_____, 29 November 1993
- Letter from R_____ N_____, a soldier who FSM saved, undated

- Letter addressed to G____ C____ from R____ D____, undated
- Email from T____ S____, son of a veteran, whom FSM helped out of the Horseshoe, undated
- several National Personnel Records Center letters
- several U.S. Army Human Resources Command letters
- Letter from E____ G____ to Congressman L____, undated
- E____ G____ biography
- Letter, Army Review Board Agency, Case Management Division, 10 November 2020
- Congressional Correspondence, 8 September 2021
- DA Form 638 (Recommendation for Award), 1 December 2021
- Distinguished Service Cross Citation and Narrative page
- Obituaries of Chain of Command

FACTS:

1. The applicant did not file within the three-year time frame provided in Title 10, United States Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states:

a. The FSM was awarded the Distinguished Service Cross (DSC) on 12 December 1944 for extraordinary heroism in military operations against an armed enemy. Shortly thereafter, he was killed in action on 18 December 1944. His DSC citation reads in part, "During this action he courageously swam to mid- river and rescued a soldier whom he had observed to be in distress." The FSM rescued one soldier in distress and made numerous trips across the Moselle River to assist and rescue many of his fellow soldiers.

b. Appendix zero, is a first- hand interview between the [FSM] and war correspondent J____ M. C____ with the Detroit News, dated 21 September 1944, just two weeks after the rescue. Mr. C____ focus was not on the 60 continuous hours that [FSM] spent behind a machine gun killing an estimated 300 of the enemy, for which he was awarded the DSC. He tells us it was all about a rescue by "that guy from Utah" who swam the Moselle River four times-four complete trips. He had gotten back across the river and was safe, but he knew that there were wounded men in foxholes on the other side and soldiers who couldn't swim. He took off his clothes and went to get them. On the last trip, the uninjured soldiers were taken back. One boat sank from under him as it was so full of shell and bullet holes."

c. In appendix one, the DSC citation states that the FSM only secured the boats but does not state he took them under heavy fire of machine gun and mortar, to the other side of the river. The FSM then loaded in the wounded soldiers and those who could not swim and took them to the west bank of the river where they were secure. All accounts that he found, report that the FSM made this round trip four times. And these heroic actions took place after FSM manned the machine gun for sixty grueling hours. The FSM saved the lives of his buddies who were stranded on the opposite side of the river and would have surely died or been taken prisoner by the Germans without his heroic actions. Because of the courage, and conspicuous bravery he so many times displayed, his determination and devotion to duty exemplified the highest traditions of the military forces of the U.S. In exhibiting the deep love that he had for his comrades, it is no wonder that the news reel from 1944 (see Appendix 2) clearly states that the FSM "saved an entire company," for indeed he did. From all accounts those boats held from 6 to 10 soldiers. If you do the math, FSM made four trips that night, that alone will account for him rescuing 24 to 40 members of his company. And in his own touching words, "he only thought of his buddies who were on the other side.

d. In appendix two, a news reel from 1944 which shows that the FSM received the DSC from General I___ in Metz, France. At this time, the FSM was also awarded the Croix deGuerre, one of the highest awards from bravery given by the French military. In FSM's humble way, he wrote a letter home to his family, and simply wrote "I have received these decorations of the U.S. all for a few deeds I did on an occasion in September."

e. In appendix three, a letter written by Lieutenant Colonel (LTC) D___ to G___ C. C___, a roommate of the FSM while he attended Brigham Young University. LTC D___ was the FSM's commanding officer for most of his time that he served in combat. The letter states... "I wish to commend you and the members of Brigham Young University's Cougar Club for your praiseworthy efforts to memorialize [FSM] outstanding performance of duty in the service of his country. As will become apparent during your reading of the enclosed material, I served as [FSM] company commander much of this period. Although my recollection of many of the experiences we shared at this time have faded with the years, I can say with a certainty that [FSM's] devotion to duty was far and beyond his nation's expectations. Consequently, I sincerely regret the fact that fate stepped in and thwarted my efforts to have him awarded the Congressional Medal of Honor (MOH)." If LTC D___ thought he was deserving of the MOH in 1944, and shared that belief in 1991 in his letter, is it consistent with his thinking, in addition to the new facts I have discovered, that he be considered for the MOH.

f. In appendix four, a Report from the Combat Studies Institute USACCAC shows the official government document of the Moselle River Crossing: 5th Infantry Division, September 1944. On page 48, it states, "incident of individual heroism became

commonplace within the bridgehead. In company G, [FSM] took over for a machine gunner who was killed; and nearby riflemen estimated that he killed "wave after wave" or "hundreds; of Germans." As you read through the reports, you will clearly see that some of the Germans were charging with fixed bayonets. There were other counter attacks that were supported by enemy tanks. The report on page 50 also states, "some men, like [FSM], company G, made numerous trips to assist others in crossing."

g. In appendix five, a letter addressed to Senator L____ from E____ G____, president of the Association THANKS GIs. E____ has devoted her life in remembering and honoring the memory of this Dornot Corny Battle, and the GIs who fought with valor to save her village.

h. In appendix six, is a copy of a French Newspaper with English translation included, published on 6 September 2018. It established once again that [FSM] was indeed a hero, and continues to state, "it's almost unknown." This was obtained from the French organization THANKS GI's who still commemorate the anniversary of the battle and thank all the GI's for liberating them from the Germans, and I quote, "for sixty hours without sleep, [FSM] repelled 36 German counter attacks, some of them carried out with Bayonets. During the final withdrawal of the Moselle River, he made four round trips to swim in the dark pushing a boat to bring many GIs to the west bank." Quoting [FSM], "I only thought of my buddies who were still on the other side, he says after the battle, "I thought to save them, that's all." The story reports that [FSM] inspired famous cartoonist J____ K____ who fought with [FSM] in the battle, the father of comics who created Captain America, and the Incredible Hulk to use [FSM] as his inspiration to create the Hulk, one of the superheroes imagined by the cartoonist.

i. In appendix seven, is a copy of a transcript of a letter from R____ A. N____ to J____ P____, historian of the 5th Infantry Division explaining the part that [FSM] played in saving his life it states, "I read your letter of [FSM]. He sure was a hero I will never forget. I got out of the Moselle River crossing due to [FSM] who brought the boat from the other side so we could get out. I could swim to get out for the water was very swift and like flood stage." This account shows that his uncle not only procured the boats but took them across and brought back men from the other side, many wounded soldiers, and those who could not swim.

j. In appendix eight, is an email from T____ S____. T____ traveled with his father M____ to the site of the battlefield and was told the stories of the battle of Dornot Gorny. M____ fought with the FSM and was one of the lucky ones who made it out alive. When you consider that 1200 soldiers went across the river and only 150 made it back across, that's a devastating loss of life. T____ writes, "Hi E____, dad was on one of the last boats out of the horseshoe, and the only one still afloat. Perhaps if it was not for [FSM], I would not be here now.

k. In appendix nine, the book *The Unknown Battle, Metz 1944* written by A____ K____, pages 53-54, K____ writes, "the [FSM] who had only been in the Army for 18 weeks took over a machine gun whose gunner was killed and continued to operate it to great effect. He certainly accounted for a large number of enemy casualties when the Germans charged with fixed bayonets. Later, [the FSM] gave his outer clothes to a wounded man and swam the river four times during the evacuation to help others to cross.

l. In appendix ten, the following comes from a book "A Forgotten Battle the Dornot Corny and Amaville Bridgehead" published by the Association THANKS GIs. It states.... many deeds of bravery were recorded. Good swimmers, such as [FSM] volunteered to swim back and forth several times to guide his buddies to the west bank.

m. In appendix 11, the [FSM's] letter to his parents about his award of the DSC. In appendix 12, the *Central Utah Journal*, 7 May 1983, affirming the actions of the [FSM] took in swimming the river and saving his buddies. In appendix 13 photographs of the [FSM] receiving his DSC in Metz, France, photographs with Army buddies in Germany, and photographs with his brother and dog. In appendix 14, photographs of the [FSM] and comrades he fought with from the memorial site at the Horseshow Woods. In appendix 15, photographs of a commemoration program on 9 September 2018.

n. In appendix 16, in the French Book titled *Les Bataillies De Mosele* by O. Weinberg and J. Martin published by Castormen in 2017, the detail of the battle of Dornot Corny is recorded. If you will look on pages 52-53 it tells the story of J____ K____, renowned artist and comic book creator. J____ K____ was there and fought in the battle with [FSM]. It tells us that he the inspiration the comic book character the incredible Hulk. His actions show that he truly was a legend.

o. In the enclosed packet, that was written and signed by his uncle's commanding officer Lieutenant Colonel (LTC) R____ H. D____, dated 30 May 1991. This letter was sent to the FSM's sister, B____ W____. In the second paragraph it states, "I served as your brother's company commander much of his service, and instituted action to have him considered for the Congressional Medal of Honor after his death. Regrettably, that recommendation was lost somewhere in route to the proper authorities in Washington, D.C. R____ H. D____ is the recommender as seen in DA Form 638 (Recommendation for Award). As you read in his letter, LTC D____ "instituted action" to have the FSM considered for the MOH. It was after reading his letter that he felt compelled to pursue this recommendation. He believes due to the recommendation being lost enroute to the proper authorities his uncle should still be considered for the MOH.

p. For the past several years, he has been driven to learn more about his uncle's military service. He spent several weeks in France walking the battlefields that overlook the Moselle River where the FSM put his life on the line to save his comrades. He has

met with folks who, to this day, revere his name and his fellow GIs by holding an annual commemoration in their honor. The following You tube video was brought to his attention by one of those wonderful people in France. It is a newsreel (French Honor American Heroes-1944) showing the FSM received the DSC from General I_____ in Metz, France. <https://www.youtube.com/watch?v=KeBfzz65o04>.

q. The MOH is awarded by the President, in the name of Congress, to Soldiers who distinguish themselves conspicuously by gallantry and intrepidity at the risk of their own lives above and beyond the call of duty while engaged in an action against an enemy of the U.S. The deed performed must have been one of personal bravery or self-sacrifice so conspicuous as to clearly distinguish the individual above his or her comrades. He believes the actions of his uncle meets the criteria.

3. The applicant's military records are not available to the Board for review. A fire destroyed approximately 18 million service members' records at the National Personnel Records Center (NPRC) in 1973. It is believed that the applicant's records were lost or destroyed in that fire. However, there were sufficient documents remaining in a reconstructed record for the Board to conduct a fair and impartial review of this case. This case is being considered using reconstructed records that primarily consist of his FSM's AGO Form 525-1 (Honorable Discharge from the Army of the United States).

4. The FSM's records contain sufficient evidence to support additional awards and information not shown on his WD AGO Form 52-1 (war Department – Report of Death). His WD AGO Form 52-1, period ending 18 December 1944 will be administratively corrected without Board action to show awards of the:

- Distinguished Service Cross
- Purple Heart
- Combat Infantryman Badge
- Bronze Star Medal
- American Campaign Medal
- European-African-Middle Eastern Campaign Medal with three bronze service stars, World War II Victory Medal
- Honorable service Lapel Button WWII
- Participated in three campaigns, Normandy, Northern France, and Rhineland.

5. The FSM entered active duty in the Army on 23 December 1943. He held an infantry specialty.

6. He served as a member during World War II with Company G, 11th Infantry Regiment, 5th Infantry Division and participated in three campaigns, Normandy, Northern France, and Rhineland. His record shows he attained the rank of Sergeant.

7. The FSM was killed in action on 18 December 1944 in Sorr, Germany. The FSM's WD AGO Form 52-1 (War Department – Report of Death) shows, in part in:

- Arm or Service: Infantry
- Place of Death: European Area
- Cause of Death: Killed in Action
- Date of Death: 18 December 1944
- Station of Deceased: European area
- Additional Date and or Statement:
 - Combat Infantryman per General Orders Number 26, Headquarters, 11th Infantry, 26 September 1944
 - The individual named in this report of death is held by the War Department to have been in a missing in action status from 18 December 1944, until such absence was terminated on 14 January 1945 when evidence considered sufficient to establish the fact of death was received by the Secretary of War from a commander in the European area

8. The applicant provides:

a. A Report from the Combat Studies Institute USACCAC which shows, in part, the official government document of the Moselle River Crossing: 5th Infantry Division, September 1944. On page 48, it states, "incidents of individual heroism became commonplace within the bridgehead. In company G [FSM] took over for a machine gunner who was killed; and nearby riflemen estimated that he killed "wave after wave" or "hundreds" of Germans. The report on page 50 also states, "[FSM], Company G and T/5 Rea, Company K, made numerous trips to assist others."

b. General Orders Number 97, issued by Headquarters, Third, United States Army, 24 November 1944, citation shows the FSM was awarded the Distinguished Service Cross (DSC) and the Bronze Star Medal (BSM) for extraordinary heroism in connection with military operations against an armed enemy. The citation states:

On 8 September 1944, the unit with which [FSM] was serving fought desperately to enlarge a small bridgehead on the east bank of the Moselle River opposite to the village of Dornot, France. The enemy had a tremendous advantage in holding well concealed hillside fortifications. As a machine gunner with the bridgehead forces, [FSM] remained with his squad at an outpost throughout a three-day period during which the enemy launched thirty-six separate counterattacks with overwhelmingly superior forces, sometimes supported with tanks. These fanatical attacks failed repeatedly against the murderous fire from [FSM] machine gun and at the end of the three-day period it was estimated that 300 of the enemy fell victim to his gun. When it became

necessary to withdraw the bridgehead forces under cover of darkness on the night of 10 September, [FSM] swam the river on four separate occasions under intense enemy fire in order to secure assault boats for the use of his comrades. During this action he courageously swam to mid river and rescued a soldier whom he had observed to be in distress. The conspicuous bravery of [FSM], many times displayed; his determination and heroic devotion to duty exemplify the highest traditions of the military forces of the U.S.

c. The DSC Certificate shows the FSM was awarded the DSC for extraordinary heroism in military operations against an armed enemy in the vicinity of Dornot, France on 10 September 1944.

d. A transcription of the article in Detroit, dated 21 September 1944 which shows, in part, the FSM had gotten back across the river and was safe, but he knew that there were wounded men in foxholes on the other side and soldiers who couldn't swim. He took off his clothes and went to get them. On the last trip, the uninjured soldiers were taken back. One boat sank from under him as it was so full of shell and bullet holes." He had gotten across the river in the last boat. Then he looked over the 75 yards of deep water. He took a long, long look. He knew wounded were laying in foxholes on the other side. He knew some soldiers who could not swim were over there.... this Utah private with the shells falling all around just stripped off his clothes and got into a boat. He paddled in the darkness and saw another boat floating by with no one on it, so he dived into the Moselle and pulled it to his boat and towed it across. Some of the men cheered. He made four trips across completed trips. On one trip he salvaged another boat. On the next trip back to the east bank it sank under him due to shell holes. boats. "Heck" said the man from Utah "I did not give it much thought, our boys were over there, and I decided they needed a hand, that's all." But I sure sleep at nights, it was hard work paddling those boats. The shells hit close, and the water was cold. [FSM] said "it was a good thing I was a good swimmer."

e. An article, The News of the Week in Review, with a map.

f. A YouTube link to a video titled, "French Honor American Heroes," <https://m.youtube.com/Watch?v=KeBfzzo04> which shows, the FSM received award of the Croix De Guerre and the MOH.

g. Several newspaper articles which state the FSM's heroism and award of the DSC. A Central Utah Journal, with an article title, "Personality Journal" which shows in part, the FSM and his unit had the job of clearing a church yard. The FSM set up his machine gun and fired at the enemy until his buddies were able to get to safety and they found shelter. The FSM tried to get away by going over a wall just then a snipers bullet hit him in the neck. His last words before he died was "keep fighting leave me to the medical men." The FSM was posthumously recommended for the MOH but during the

chaos of the final months of war the recommendation was never acted upon. The recommendation said, "he heroically remained exposed to enemy fire until killed while covering the advance of his unit."

h. A letter from the FSM to his family on 2 December 1944.

i. Several photographs of the FSM.

j. Records show that the FSM was missing in action (MIA) during his service in WWII. The FSM's Battle Casualty Report shows in the block titled "Date of Casualty - 18 December 1944." However, no information is listed.

9. A National Archives and Records Administration (NARA), National Personnel Records Center, Surgeon General Office (SGO) Hospital Listing, which show the FSM's name.

10. On 22 February 1945, the FSM was awarded the Purple Heart for military merit and for wounds received in action resulting in his death on 18 December 1944.

11. A letter issued by Chaplain W____ S. J____, to the mother of the FSM, on 3 April 1945, in which he states, "On 18 December 1944, the date your son was killed he was leading a squad across a stone wall in Saarlautern, Germany. During this action he was hit by a bullet from the gun of an enemy sniper. Evidently, he was hit in a vital spot for he was rendered unconscious. He was given medical aid by the company aid man immediately and was placed on a litter. It was while in the process of being evacuated to the Medical Battalion Aid Station that he died five minutes after he was wounded without regaining consciousness.

12. The applicant provides:

a. A certificate, issued by U.S. President E____, which states, in grateful memory of FSM who died in the service of his country in the European area, 20 December 1964.

b. Several books depict the heroism of the FSM. "The Unknown Battle" and "The Dornot Corney" state the FSM's took over a machine gun, accounted for a large number of the enemy casualties and swam the river four times during the evacuation to save other comrades. The book, "The Unknown Battle" further stated ... [FSM] who had only been in the Army for 18 weeks, took over a machine gun whose gunner had been killed, and continued to operate it with great effect. He certainly accounted for a large number of the enemy casualties when the Germans charged in with fixed bayonets. Later, he gave his outer clothes to a wounded man and swam the river four times during the evacuation to help others to cross. The above are simply two examples of numerous incidents of personal heroism and of men who put their comrades before their own personal safety.

c. A letter issued by R____ H. D____ to the FSM's sister, on 30 May 1991, in which he states, "enclosed is some material which I recently sent to G____ C. C____ who is preparing a book concerning your brother. As is indicated within the material, I served as your brother's company commander for much of his service, and instituted action to have him considered for the MOH after his death. Regrettably, that communication was lost somewhere enroute to the proper authorities in Washington, D.C."

d. A letter also issued by R____ H. D____ to G____ C. C____ a former roommate of the FSM, on 30 May 1991, in which he states:

(1) "I wish to commend you and the members of Brigham Young University Cougar Club for your praiseworthy efforts to memorialize [FSMs] outstanding performance of duty in the service of his country. I served as [FSM's] company commander much of this period. Although my recollection of many of the experience we shared during this time have faded with the years, I can say with certainty that [FSM] devotion to duty was far and beyond his nation's expectations. Consequently, I sincerely regret the fact that fate stepped in and thwarted my efforts to have him awarded the MOH.

(2) His letter shows, in part, "according to members of [FSM] squad he "covered them" with carbine fire early that afternoon as they scaled a chest-high brick wall near Saarlautern battered old cathedral and positioned their machine gun. Once in position, they reciprocated in kind. Alas, [FSM's] actions were a bit slow. He paused for just a moment atop the wall. That moment's delay was all a nearby sniper needed to send a bullet slamming into his upper body. There was nothing anyone could do. He was dead within a matter of a few minutes. There was nothing anyone could do. He was dead within a matter of a few minutes. But it was not due to lack of care. One of the company aidmen attended his wounds within minutes of his being hit. Oddly enough, due to these same members of [FSM] squad, [FSM] chided the aidman for being so concerned about his welfare and suggested that he goes and assist some of the other wounded. Thus ended the life of a peace-loving young soldier whose devotion to duty was far and beyond his nation's call to duty. I sincerely regret that fate stepped in and frustrated our attempts to have consider for the MOH.

e. A letter issued by J____ P____, to the Department of the Army, on behalf of the FSM's sister (B____ W____) 2 November 1993, in which he requested to obtain medals entitled to the FSM.

f. A letter by R____ N____ in response to reunion of Company G, undated, in which he states:

(1) "He got out of the Moselle River crossing due to [FSM] who brought the boat from the other side so we could get out I could not swim to get out for the river was very

swift and like flood stage. I am sure I was with Rex when he was killed. I hope my memory is right and not giving you the wrong information. We were fighting in Saarlautern where we were fighting from house to house to get the Germans out. We were in a church.

(2) The house to take was about 20 yards from the rear of the church. There was a 6-foot wall you had to go over to get to the next house. A shell of some kind had hit the wall before we got there. I knocked down 2 feet off the wall. So, when our fellows ran to the next house everyone was going over the wall where it was hit. I was standing in the rear of the church sending the men to the next house. You could not run to the house on the street as there were snipers.

(3) It came down to [FSM] turn to go to the next house. 'When he was going over the wall a sniper shot [FSM]. A medic and I ran out and pulled [FSM] back into the church. When we examined [FSM] he was dead. If [FSM] was killed at Saarlautern then my telling you this is what happened to [FSM]. There may be a way to find out where he was killed. Ask Captain D_____ if [FSM] was killed at Saarlautern. I sure hope I am not giving you the wrong information; it was a long time ago. “

g. An email by T_____ S_____ whose father was saved by the FSM, the email states, “Dad was on one of the last boats out of the Horseshoe, and the only one still afloat. Perhaps if it was not for the [FSM], I would not be here now.”

h. In the French book titled “Les Batailles De Moselle” on pages 52 and 53 (the applicant states) the author J_____ K_____ was in battle alongside the FSM and depicts the FSM as the character Incredible Hulk. The FSM’s name is mentioned in the book. The book is written in French, no official English translation provided.

i. A copy of a French Newspaper published with English translation included, published on 6 September 2018. The story reports that [FSM] inspired famous cartoonist J_____ K_____ who fought with [FSM] in the battle. The father of comics who created Captain America, and the Incredible Hulk to use [FSM] as his inspiration to create the Hulk, one of the superheroes imagined by the cartoonist.

j. A letter from E_____ G_____, the President of the Association THANKS GI’s in which she states, she has met many veterans. All those from the 5th Division knew of [FSM] during the Dornot-Corny Bridgehead operations. Many of them owed him their life.

k. The applicant provides a DA Form 638, and several obituaries for the FSM’s former chain of command. The following is the write up for the narrative page, original citation, and proposed citation -

(1) Narrative page: [FSM] having been in combat only 13 days, as a machine-gunner with the bridgehead forces, [FSM] remained with his squad at an outpost throughout a three-day period which the enemy launched thirty-six separate counter attacks with overwhelmingly superior forces, sometimes supported with tanks. These fanatical attacks failed repeatedly against the murderous fire from [FSM] machine-gun and at the end of the three-day (60 hours) period it was estimated that 300-400 of the enemy fell victim to his gun. The part that is left out of the DSC is when it became necessary to withdraw the bridgehead forces under cover of darkness on the night of 10 September [FSM] swam the river on four separate occasions under intense enemy fire in order to secure assault boats for his comrades. [FSM] had gotten across the river on the last boat. He then looked over the 75 yards of deep water. He took a long, long look. He knew wounded were lying in foxholes on the other side. He knew some soldiers who couldn't swim were over there. He knew First Lieutenant R____ W. S____ of New York, a good swimmer had stayed there refusing to leave his men. So, this Utah Private with shells falling all around just stripped off his clothes and got into a boat. He paddles in the darkness and saw another boat floating by with no one in it. So, he dived into the Moselle and pulled it to his boat and pulled it across. The soldiers who could not swim put the soldiers who were wounded in first. [FSM] made four trips with them - four complete trips. On one trip he salvaged another boat. On the next trip back to the east bank, it sunk under him due to shell holes. On the last trip the uninjured soldiers were taken back, a mere handful of them. Lieutenant S____ was the last man to leave. The shells lit close, and the water was cold. [FSM] stated "I did not give it much thought, our boys were over there, and I decided they needed a hand, that's all."

(2) Original citation for DSC: [FSM] Infantry Regiment, 5th Infantry Division, United States Army. For extraordinary heroism in connection with military operations against an armed enemy. On 8 September 1944, the unit with which [FSM] was serving fought desperately to enlarge a small bridgehead on the east bank on the Moselle River opposite the village of Dornot, France. The enemy had a tremendous advantage in holding well-concealed hillside fortifications. As a machine-gunner with the bridgehead forces, [FSM] remained with his squad at an outpost throughout a three-day period during which the enemy launched thirty-six separate counter attacks with overwhelmingly superior forces, sometimes supported with tanks. These fanatical attacks failed repeatedly against the murderous fire from [FSM] machine-gun and at the end of the three-day period it was estimated that 300 of the enemy fell victim to his gun. When it became necessary to withdraw the bridgehead forces under cover of darkness on the night of 10 September, [FSM] SWAM THE RIVER ON FOUR SEPARATE OCCASIONS UNDER INTENSE ENEMY FIRE IN ORDER TO SECURE ASSAULT BOATS FOR THE USE OF HIS COMRADES. During this action he courageously swam to mid-river and rescued a soldier whom he had observed to be in distress. The conspicuous bravery of Private REX, many times displayed; his determination and heroic devotion to duty exemplify the highest traditions of the military forces of the United States.

(3) Proposed citation for upgrade to the MOH: On one trip the boat was shot out from under him. On his first trip, soldiers who could not swim put those who were wounded in the boat. on his last trip, the uninjured soldiers were taken back. [FSM] swam the river on four separate occasions saving a whole company. (see United Newsreel: <https://www.youtube.com/watch?v=KeBfzz65o04>)

14. On 16 March 2016, by letter from the Awards Branch, U.S. Army Human Resources Command, to his Member of Congress, in response to his letter of February 29, 2016, on behalf of [Applicant] concerning his desire to obtain the Medal of Honor for his late uncle, Sergeant [FSM]. The letter states:

a. The Awards Branch understands the desire to obtain additional award recognition for his uncle's extraordinary heroism during World War II; however, the Awards Branch is unable to forward this request for reconsideration to the Army Decorations Board at this time. The Medal of Honor is awarded by the President, in the name of Congress, to Soldiers who distinguish themselves conspicuously by gallantry and intrepidity at the risk of their own lives above and beyond the call of duty while engaged in an action against an enemy of the United States. The deed performed must have been one of personal bravery or self sacrifice so conspicuous as to clearly distinguish the individual above his or her comrades. Incontestable proof of the performance of the service will be exacted and each recommendation for the award of this decoration will be considered on the standard of extraordinary merit.

b. The applicant cannot pursue a retroactive Medal of Honor recommendation for his uncle's cumulative actions over the span of several months. He should focus solely upon his extraordinary heroism of September 8-10, 1944, for which [FSM] received his prior award of the Distinguished Service Cross. In order to process this request, [Applicant] must abide by the administrative guidelines pursuant to Title 10, United States Code, Section 1130; Department of Defense Manual 1348.33, Volume 1 (Manual of Military Decorations and Awards); and Army Regulation 600-8-22 (Military Awards). A request for reconsideration to upgrade an approved, disapproved or downgraded award can be submitted only if new, substantive, and material information directly pertaining to the Soldier's actions is furnished. The additional justification for reconsideration should be composed in letter format not exceeding two single-spaced typewritten pages; this document must note any omissions or errors contained in the original recommendation for award or supporting documents. The information presented must significantly change the scope and magnitude of [FSM's] actions. The submission of new, minor details, as well as information previously known to this office, will not justify Medal of Honor reconsideration.

c. In order to properly assess the merits of this case, a complete copy of the original recommendation for award with all original supporting documentation must be attached. The Awards Branch recommends contacting the National Archives at College Park in

attempt to obtain the original recommendation, associated documents and required unit records. He may write to their office at: National Archives, ATTN: Textual Reference Branch, 8601 Adelphi Road, College Park, Maryland 20740-6001. They may be contacted via e-mail at archives2reference@nara.gov.

d. Additionally, the Awards Branch requires the following award elements: a new DA Form 638 (Recommendation for Award) for the Medal of Honor signed by an individual with firsthand knowledge of Sergeant Rex's actions; former wartime chain of command endorsements through the rank of General; proposed citation and narrative for the Medal of Honor submitted as addendums to the DA Form 638, with new, substantive and material information; declassified unit reports directly pertaining to his heroism; color maps or diagrams of the location of the action; and two or more notarized eyewitness statements regarding the action. If endorsements from his former wartime chain of command cannot be obtained, information regarding the steps taken to locate them must be provided; the officers' names, ranks, titles and positions, as well as their inability to provide endorsement, must be annotated in Blocks 23-25 (Intermediate Authority) and 25-A1 through 25-A5 as necessary, of the DA Form 638.

e. Completed documentation and award recommendations must be referred by a Congressional member (in letter format citing Title 10, United States Code, Section 1130) and forwarded to: U.S. Army Human Resources Command, ATTN: AHRC-PDP-A. 1600 Spearhead Division Avenue, Fort Knox, KY. One time reconsideration by the award approval authority shall be conclusive.

15. On 8 July 2019, by letter from the Awards Branch at the U.S. Army Human Resources Command to a Member of Congress in response to his letter of July 2, 2019, on behalf of [Applicant] Rex concerning his desire for his late uncle, [FSM] to be awarded the Medal of Honor in lieu of his previously awarded Distinguished Service Cross. The Awards Branch would like to render favorable action; however, their office remains unable to forward this request for reconsideration to the Army Decorations Board. Per the provided DA Form 638 (Recommendation for Award) and other supporting documentation, [FSM's] wartime chain of command is now deceased. Without both a living recommender and one living intermediate authority, the retroactive recommendation cannot be processed in accordance with Army Regulation 600-8-22 (Military Awards) and Section 1130, Title 10, United States Code (10 USC 1130). To be considered "submitted into military channels" requires signature by both an initiating official and endorsement by the first higher official in the chain of command (who is not the recommender). While this isn't a positive response, the Army is grateful for [FSM's] faithful and dedicated service to our Nation during a time of great need.

16. On 10 November 2020, by letter, the Case Management Division, Army Review Boards Agency, informed him to apply to HRC utilizing the 1130 process.

17. On 10 August 2021, by letter from the Awards Branch at the U.S. Army Human Resources Command to two Members of Congress on behalf of [Applicant] concerning his desire for his late uncle to be awarded the Medal of Honor in lieu of his previously approved award of the Distinguished Service Cross. As stated in previous correspondence with their office, HRC Awards Branch remains unable to facilitate this request. While they acknowledge the newly provided documentation, it cannot be utilized in the award recommendation process. They must reiterate, per the previously provided DA Form 638 (Recommendation for Award) and other supporting documentation, [FSM's] wartime chain of command are now deceased. Without both a living, qualified recommender and one living intermediate authority, the retroactive recommendation cannot be processed in accordance with Army Regulation. As such, they remain unable to forward this request for reconsideration to the Army Decorations Board.

18. The reconstructed NPRC file made available to this Board is void of any orders or other documents that show the applicant was ever recommended for or awarded the MOH by proper authority while serving on active duty.

BOARD DISCUSSION:

After reviewing the application, all supporting documents and the evidence found within the military record, the Board determined that relief was warranted. The Board carefully considered the applicant's contention, military record, the award of the Silver Star and the additional documentation provided for consideration of the award of the Medal of Honor. One possible outcome was to deny relief. However, the majority of the Board members recognized that the Soldier's wartime chain of command are now deceased and, as such, a recommendation cannot be processed in accordance with regulatory guidance. Nevertheless, the Board agreed that does not diminish the totality of eyewitness statements, nor the recognitions and awards received which attest to the applicant's actions performed in the line of duty. Further, the Board determined that those actions consistently exemplified personal bravery and warrant due consideration of an upgrade of the Distinguished Service Cross to a Medal of Honor. Based on the preponderance of the documentation available for review, the Board determined the evidence presented sufficient to warrant a recommendation for partial relief.

2. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
█		█	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	█	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be forwarded to the US Army Human Resource Command for consideration of the request as follows:

Commander, US Army Human Resources Command
 ATTN: AHRC-PDP-A (Awards and Decorations Branch)
 1600 Spearhead Division Avenue
 Fort Knox, Kentucky 40122
 Email: usarmy.knox.hrc.mbx.tagd-awards@mail.mil

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to upgrade of the applicant's DSC to a Medal of Honor without the benefit of the review above.

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I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

ADMINISTRATIVE NOTE(S):

Correct the FSM's WD AGO Form 52-1 as follows:

- Award of the Distinguished Service Cross, Purple Heart, Combat Infantryman Badge, Bronze Star Medal, American Campaign Medal, European-African-Middle Eastern Campaign Medal with three bronze service stars, World War II Victory Medal, and Honorable service Lapel Button WWII
- FSM's participation in Normandy, Northern France, and Rhineland campaigns

REFERENCES:

1. Title 10, United States Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation 600-8-22 (Military Awards) prescribes the Army's awards policy. Paragraph 3-1 states, in pertinent part, that the decision to award an individual a decoration and the decision as to which award is appropriate are both subjective decisions made by the commander having award approval authority.

a. Paragraph 3-7 of the awards regulation states, in pertinent part, that the MOH is awarded by the President in the name of Congress to a person who, while a member of the Army, distinguishes himself or herself conspicuously by gallantry and intrepidity at the risk of his or her life above and beyond the call of duty while engaged in an action against an enemy of the United States; while engaged in military operations involving conflict with an opposing foreign force; or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party. It further stipulates that the deed performed must have been one of personal bravery or self-sacrifice so conspicuous as to clearly distinguish the individual above his comrades and must have involved risk of life. Incontestable proof of the performance of the service will be exacted and each recommendation for the award of this decoration will be considered on the standard of extraordinary merit.

b. The Distinguished Service Cross is awarded to a person who, while serving in any capacity with the Army, distinguished himself by extraordinary heroism not justifying the award of the Medal of Honor, while engaged in an action against an enemy. The act or acts of heroism must have been so notable and have involved risk of life so extraordinary as to set the individual apart from his comrades.

c. Title 10 of the U.S. Code, section 1130 provides the legal authority for consideration of proposals for decorations not previously submitted in a timely fashion. It allows, in effect, that upon the request of a Member of Congress, the Secretary concerned shall review a proposal for the award or presentation of a decoration (or the upgrading of a decoration), either for an individual or a unit, that is not otherwise authorized to be presented or awarded due to limitations established by law or policy for timely submission of a recommendation for such award or presentation. Based upon such review, the Secretary shall make a determination as to the merits of approving the award or presentation of the decoration.

d. The Bronze Star Medal is awarded for heroism and for meritorious achievement or service in military operations against an armed enemy. The Bronze Star Medal is authorized for each individual who was cited in orders or awarded a certificate for exemplary conduct in ground combat between 7 December 1941 and 2 September 1945 or whose achievement or service, during that period, was confirmed by documents executed prior to 1 July 1947. An award of the Combat Infantryman Badge or the Combat Medical Badge is considered to be a citation in orders. Therefore, the Bronze Star Medal is to be awarded to individuals who were authorized either badge for service during World War II.

e. The American Campaign Medal is awarded for qualifying service in the American Theater between 7 December 1941 and 2 March 1946. Qualifying service for this campaign medal includes permanent assignment outside the continental United States but within the American Theater of Operations, or duty as a crewmember aboard a vessel sailing ocean waters for 30 consecutive or 60 nonconsecutive days, or duty outside the continental United States as a passenger or in a temporary duty status for 30 consecutive or 60 nonconsecutive days, or active combat against the enemy and was awarded a combat decoration or furnished a certificate by a corps commander or higher, or service within the continental United States for an aggregate period of one year.

f. The European-African-Middle Eastern Campaign Medal is awarded for service within the European African-Middle Eastern Theater between 7 December 1941 and 8 November 1945. This medal is awarded to any service member who was permanently assigned in the theater, who was in a passenger status or on temporary duty for 30 consecutive days or 60 nonconsecutive days, or who was in active combat against the enemy and was awarded a combat decoration, or who was furnished a certificate by the commanding general of a corps or higher unit or independent force showing that he actually participated in combat.

g. The World War II Victory Medal is awarded for service between 7 December 1941 and 31 December 1946, both dates inclusive.

3. Army Regulation 600-45 (Decorations), dated 22 September 1943, stated the "Medal of Honor is awarded, in the name of Congress, to each person who, while an officer, noncommissioned officer, or private of the Army, in action involving actual conflict with an enemy, distinguishes himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty. The individual must have performed in action a deed of personal bravery or self-sacrifice above and beyond the call of duty, so conspicuous as to clearly distinguish him for gallantry and intrepidity above his comrades involving risk of life or the performance of more-than-ordinarily hazardous service, the omission of which would not justly subject the person to censure for shortcoming or failure in the performance of his duty. The recommendations for the

decoration would be judged by that standard of extraordinary merit and incontestable proof of the performance of the service would be extracted.

//NOTHING FOLLOWS//