

DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 6-96

FINAL DECISION

██████ Chairman:

This is a proceeding under the provisions of section 1552 of title 10, United States Code. It was commenced on October 12, 1995, upon the BCMR's receipt of the applicant's request for correction of his record.¹

This final decision, dated May 28, 1997, is signed by the three duly appointed members who were designated to serve as the Board in this case.

Application for Correction

In World War II, the applicant was a seaman 1st class (S1c). He served aboard LST 887 during the invasion of Okinawa.² He claimed that he was wounded when his ship was at the beach under heavy fire.

The applicant claimed that he should have been awarded the Purple Heart as a result of his alleged wounding during the Okinawa invasion. He stated that he was honorably discharged on March 27, 1946.

The applicant attached to his application the decision of a Hearing Officer and

¹ This case was not decided within 10 months following the Board's receipt of a completed application, because the Board never received a completed application in this case. The applicant's military record was ordered from the National Personnel Records Center (NPRC) on October 20, 1995, July 2, 1996, October 7, 1996, November 4, 1996, and February 4, 1997. The applicant's military record was never submitted to the Board by the NPRC. The case has therefore been decided on the basis of the transcript of a hearing held in 1995 by the Department of Veteran's Affairs (DVA).

² The Coast Guard was part of the Navy during World War II.

an Adjudication Officer of the Veterans Administration (now the Department of Veterans Affairs (DVA)) along with a decision on his compensation claim.

Views of the Coast Guard

The BCMR did not receive any recommendation from the Coast Guard as to whether the applicant should receive or not receive the Purple Heart. The Chief of the Military Justice Division of the Coast Guard said the application would "not be reviewed until the service records are received from the Board."

A copy of the report by the DVA concluding that the applicant suffered a service-connected wound that was 10% disabling was submitted to the Coast Guard. This report did not change the Coast Guard's position.

Military Record

The BCMR requested the applicant's military record from the National Personnel Records Center (NPRC) on five separate occasions.

No records were received from the NPRC or the Coast Guard.

Report of the Department of Veterans Affairs

In August 1995, argument and testimony were received and reviewed by a DVA Hearing Officer. The officer found that the applicant had an X-ray during the last year or two which showed that he had a metal fragment in his left leg. The doctors who examined the X-rays said the fragment was shrapnel and that there was no way it could have gotten there other than during the invasion of Okinawa. The DVA decided that service connection was established for a shell fragment wound of the left lower leg.

The applicant testified at the VA hearing that he did not report the wound at the time, but that he did go to sick bay later:

I continued on and on until I guess everything settled down . . . without going to or reporting it to the sick bay except to say he "had a little fragment in there." I did go to sick bay to get a band aid from the pharmacist maid (sic). I told them that I had a little fragment in there and they pulled it out with a little tweezers.

The applicant told the hearing officer that for approximately 50 years he did not receive any treatment for his left leg. ("I just live with it like everything else.") The hearing officer said it was "[r]emarkable that [the applicant] could suffer something that went way in and not notice it and not feel it."

The hearing officer asked the applicant what kind of residual disability he has from this wound, and does he have pain in the leg? The applicant said it's not excruciating; it doesn't stop him from doing things.

The Department of Veterans Affairs found that the applicant's shell fragment wound was 10% disabling.

REQUIREMENTS FOR THE AWARD OF THE PURPLE HEART

Executive Order No. 9277 of December 3, 1942 provided for the award of the Purple Heart to persons who, "while heretofore or hereafter serving in any capacity with the Navy, Marine Corps, or Coast Guard of the United States, are wounded in action against an enemy of the United States, or as a result of an act of such enemy, provided such wound necessitates treatment by a medical officer."

The current Coast Guard Awards Manual authorizes the Commandant to award the Purple Heart to any member of the Coast Guard or any member serving under competent authority in any capacity with the Coast Guard who is wounded or killed in any action against an enemy of the United States.³ Subsection d. of section 2.B.11. defines a "wound" as an injury that "required treatment by a medical officer." The section also provides that "the wound for which the award is made must have required treatment by a medical officer."

FINDINGS AND CONCLUSIONS

The BCMR makes the following findings and conclusions on the basis of the applicant's submissions, the reports of the Department of Veterans Affairs, and applicable law:

1. The BCMR has jurisdiction of the case pursuant to section 1552 of title 10, United States Code.

2. The Coast Guard states that the Board should not adjudicate this case because the Coast Guard does not have the military record of the applicant. Section 1552 of title 10, United State Code, does not make the jurisdiction of the BCMR dependent upon the Coast Guard's possession of the applicant's military record, if an error or injustice can otherwise be established or not established.

3. The Department of Veterans Affairs held a hearing at which the applicant testified about the wound he allegedly sustained during the invasion of Okinawa. The applicant testified that he did not report that he had been wounded, during the battle for Okinawa, but he did go to sick-bay when things "settled down." The DVA, in 1995, found that he was 10% disabled and that the disability was service-

³ Section 2.B.11, Medals and Awards Manual of the Coast Guard.

connected.

4. The applicable law in this case is the law in effect during World War II. According to the Executive Order, the Purple Heart is to be awarded if "such wound necessitates treatment by a medical officer." (The applicable law does not provide that the Purple Heart is to be awarded only if such wound is treated by a medical officer.) A shrapnel wound that a person carries in his leg for 50 years "necessitates treatment," whether or not it is treated.

5. The applicant's leg wound was not treated by a medical officer, but he did go to sick bay and have a small fragment removed.

6. The applicant's "wound" was a "wound" for purposes of eligibility for receipt of the Purple Heart. A wounded member is eligible for the Purple Heart medal if the wound "necessitates treatment by a medical officer" whether or not he received such treatment.

7. Accordingly, the applicant was eligible to receive the Purple Heart and it should be awarded.

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

ORDER

The application to correct the military record of [REDACTED] USCG, is granted. The applicant's record shall be corrected to show that he received the Purple Heart for injuries sustained during World War II.

