



DEPARTMENT OF THE ARMY  
BOARD FOR CORRECTION OF MILITARY RECORDS  
1901 SOUTH BELL STREET 2ND FLOOR  
ARLINGTON, VA 22202-4508

October 20, 2011

AR20110012517, Poniedzialek, Walter (Deceased)

Ms Marion J. Chard  
1460 Joy Street  
Post Office Box 147  
Alger MI 48610-0147

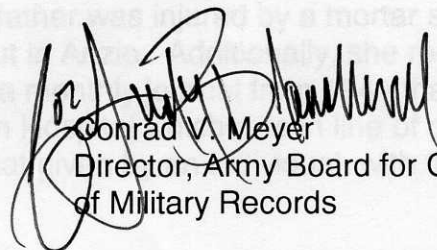
Dear Ms. Chard:

I regret to inform you that the Army Board for Correction of Military Records denied your application.

The Board considered your application under procedures established by the Secretary of the Army. I have enclosed a copy of the Board's Record of Proceedings. This decision explains the Board's reasons for denying your application.

This decision in your case is final. You may request reconsideration of this decision within one year by letter to the above address only if you can present new evidence or argument that was not considered by the Board when it denied your original application.

Sincerely,

  
Conrad V. Meyer  
Director, Army Board for Correction  
of Military Records

Enclosure applicant provides copies of the following documents:

- FSM's WD AGO Form 53-55
- FSM's death certificate
- FSM's marriage license
- Her certificate of live birth
- Her marriage license
- 5406th Engineer Regiment Journal for the Month of May 1944

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: PONIEDZIALEK, WALTER (DECEASED)

BOARD DATE: 18 October 2011

DOCKET NUMBER: AR20110012517

THE BOARD CONSIDERED THE FOLLOWING EVIDENCE:

1. Application for correction of military records (with supporting documents provided, if any).
2. Military Personnel Records and advisory opinions (if any).

THE APPLICANT'S REQUEST, STATEMENT, AND EVIDENCE:

1. The applicant requests her deceased father, a former service member (FSM), be awarded the Purple Heart. She also requests, in effect, correction of his WD AGO Form 53-55 (Enlisted Record and Report of Separation – Honorable Discharge) to show the Combat Infantryman Badge.
2. The applicant states her later father's honorable discharge record states no injuries were incurred during the war. She disputes that. Her father passed away in 1967 when she was 12 years of age. She recently started conducting an extensive research into his role and the role of the 540th Combat Engineer Regiment. A few years back, she met a man who served with her father in Italy. This person relayed to her that her father was injured by a mortar shell while acting as a courier during a breakout in Anzio. Additionally, she recently obtained corroborating evidence in a monthly journal from 1944 that states "[FSM] from duty to 15th Evacuation Hospital which was in line of duty." The date (24 May) corresponded with that given by an individual, with the name IW, several years ago.
3. The applicant provides copies of the following documents:
  - FSM's WD AGO Form 53-55
  - FSM's death certificate
  - FSM's marriage license
  - Her certificate of live birth
  - Her marriage license
  - 540th Engineer Regiment Journal for the Month of May 1944

CONSIDERATION OF EVIDENCE:

1. Title 10, U.S. 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 Army Board for Correction of Military Records (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. While it appears the applicant did not file within the time frame provided in the statute of limitations, the ABCMR has elected to conduct a substantive review of this case and, only to the extent relief, if any, is granted, has determined it is in the interest of justice to excuse the applicant's failure to timely file. In all other respects, there are insufficient bases to waive the statute of limitations for timely filing.

2. The FSM's complete 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 in 1973. It is believed that his 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.

3. The FSM's available records show he was inducted into the Army of the United States in Detroit, MI, on 19 March 1943. He entered active duty on 26 March 1943 and he held military occupational specialty (MOS) 014 (Automotive Mechanic).

4. The "Foreign Service" section of his WD AGO Form 24 (Service Records) shows he served in the North African theater of operations (NATO) and European theater of operations (ETO) as follows:

- departed continental United States (CONUS) on 21 August 1943 and arrived in NATO on 2 September 1943
- departed Africa on 19 September 1943 and arrived in Italy on 21 September 1943
- departed Italy on 12 August 1944, arrived in South France on 15 August 1944
- departed France on 3 November 1945 and arrived back in CONUS on 14 November 1945

5. He was assigned or attached to the following units during his service in World War II (WWII):

- Headquarters and Service Company, 540th Engineer Regiment from 30 October 1943 to on or about 14 February 1945
  - Headquarters and Headquarters Service Company, 2833rd Engineer Combat Battalion from 15 February 1945 to on or about 7 July 1945
  - Headquarters and Headquarters Service Company, 240th Engineer Battalion from 8 July 1945 to on or about 9 September 1945
  - Headquarters and Headquarters Service Company, 2832nd Engineer Battalion from 10 September 1945 to on or about 3 November 1945
6. The "Medals, Decorations, and Citations" block of his WD AGO Form 24 shows he was awarded the Army Good Conduct Medal and a bronze arrowhead.
7. An insert (WD AGO Form 24-2), dated 10 February 1945, added to his WD AGO Form 24, authorized him bronze service stars for the Naples-Foggia, Rome-Arno, Southern France, Rhineland, and Central Europe campaigns.
8. His WD AGO Form 24 does not show any combat wounds or awards of the Purple Heart or the Combat Infantryman Badge.
9. He underwent a separation physical on 16 November 1945 at Camp Atterbury, IN. His WD AGO Form 38 (Report of Physical Examination of Enlisted Personnel Prior to Discharge, Release from Active Duty, or Retirement) shows in:
- item 10 (List all significant diseases, wounds, and injuries; state circumstances under which wounds or injuries and date of onset), the entry "11a. Bad teeth"
  - item 43 (Remarks, special tests, or other defects), the entry "treatment decline #12 (Teeth)"
10. His WD Form 372A (Final Payment Worksheet), dated 17 November 1945, does not show he was authorized any combat infantry pay.
11. He was honorably separated on 17 November 1945. He completed 4 months and 28 days of continental service and 2 years, 2 months, and 24 days of foreign service.
12. Item 31 (Military Qualifications and Date) of his WD AGO Form 53-55 shows the entry "Not Available." [This item would have listed the Combat Infantryman Badge, when awarded or authorized].

13. Item 32 (Battles and Campaigns) of his WD AGO Form 53-55 shows he participated in the Naples-Foggia, Rome-Arno, Rhineland, Southern France, and Central Europe campaigns during his service in WWII.

14. Item 33 (Decorations and Citations) of his WD AGO Form 53-55 shows he was awarded the European-African-Middle Eastern Campaign Medal with five bronze service stars and bronze arrowhead, World War II Victory Medal, and Army Good Conduct Medal.

15. Item 34 (Wounds Received in Action) of his WD AGO Form 53-55 contains the entry "None."

16. Item 4 (Arm or Service) shows the entry, "CE" (Corps of Engineers).

17. The applicant submitted a journal for the month of May 1944, dated 4 June 1944, and pertaining to Headquarters and Service Company, 540th Engineer Regiment. An entry, dated 24 May 1944, states "T/5 (Technician 5th Class) [FSM] from duty to 15th Evacuation Hospital which was in line of duty."

18. The Purple Heart was established by General George Washington at Newburgh, New York, on 7 August 1782 during the Revolutionary War. It was reestablished by the President of the United States per War Department General Orders Number 3 in 1932. It was awarded in the name of the President of the United States to any member of the Armed Forces or any civilian national of the United States who, while serving under competent authority in any capacity with one of the U.S. Armed Services after 5 April 1917, died or sustained wounds as a result of hostile action.

19. Army Regulation 600-8-22 (Military Awards) provides that the Purple Heart is awarded for a wound sustained in action against an enemy or as a result of hostile action. Substantiating evidence must be provided to verify that the wound was the result of hostile action, the wound must have required treatment, and the medical treatment must have been made a matter of official record. Examples of enemy-related injuries which clearly justify award of the Purple Heart are as follows: injury caused by enemy bullet, shrapnel, or other projectile created by enemy action; injury caused by enemy placed mine or trap; injury caused by enemy released chemical, biological, or nuclear agent; injury caused by vehicle or aircraft accident resulting from enemy fire; and/or concussion injuries caused as a result of enemy generated explosions.

20. Army Regulation 600-8-22 states there are basically three requirements for award of the Combat Infantryman Badge. The Soldier must be an infantryman satisfactorily performing infantry duties, he must be assigned to an infantry unit

during such time as the unit is engaged in active ground combat, and he must actively participate in such ground combat:

DISCUSSION AND CONCLUSIONS:

1. With respect to the Purple Heart:

a. The criteria for an award of the Purple Heart requires the submission of substantiating evidence to verify that the injury/wound was the result of hostile action, the injury/wound must have required treatment by medical personnel, and the medical treatment must have been made a matter of official record.

b. The evidence submitted by the applicant and consists of a May 1944 journal of the 540th Engineer Regiment which shows the FSM was transferred from duty to the 15th Evacuation Hospital which was in line of duty. However, this entry does not indicate he was wounded or injured as a result of enemy action. A routine illness or disease or any non-battle injury would have warranted a similar entry. Nothing in the record confirms this as a combat injury.

c. Notwithstanding the applicant's sincerity, there is no evidence in the FSM's official records that shows he was wounded or injured as a result of hostile action or treated for such wounds. His contemporaneous WD AGO Form 38 did not list any wounds or injuries. Regrettably, absent evidence which conclusively shows he sustained wounds or injuries as a result of hostile action, that he was treated by medical personnel for those wounds or injuries, and that this treatment was made a matter of official record, there is insufficient basis for awarding the Purple Heart to the FSM in this case.

2. With respect to the Combat Infantryman Badge:

a. There are basically three requirements for award of the Combat Infantryman Badge. The Soldier must be an infantryman satisfactorily performing infantry duties, he must be assigned to an infantry unit during such time as the unit is engaged in active ground combat, and he must actively participate in such ground combat:

b. The FSM's available records show he held a maintenance MOS, was in the Corps of Engineers, and he was assigned to an engineer unit during WWII. Regrettably, he does not meet the criteria for the Combat Infantryman Badge.

BOARD VOTE:

\_\_\_\_\_ GRANT FULL RELIEF

\_\_\_\_\_ GRANT PARTIAL RELIEF

\_\_\_\_\_ GRANT FORMAL HEARING

3 HE SOH DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined that the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

2. The Board wants the applicant and all others concerned to know that this action in no way diminishes the sacrifices made by the FSM in service to our Nation. The applicant and all Americans should be justifiably proud of his service in arms.

  
CHAIRPERSON

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.