

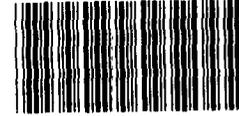


United States  
General Accounting Office  
Washington, D.C. 20548

National Security and  
International Affairs Division

B-251967

February 3, 1993



148472

The Honorable Vic Fazio  
House of Representatives

Dear Mr. Fazio:

As you requested, we have inquired into combat award actions initiated on behalf of a former soldier who fought in the Vietnam War's battle of Hamburger Hill. We obtained information on this individual's (1) eligibility for the Medal of Honor and (2) eligibility for additional awards, including the Purple Heart.

BACKGROUND

Military decorations are awarded in recognition of heroism, meritorious achievement, or meritorious service. The Army has five awards for heroism or valor in ground combat. In descending order they are the Medal of Honor, the Distinguished Service Cross, the Silver Star, the Bronze Star for Valor, and the Army Commendation Medal for Valor.

For a soldier to receive one of these awards, an individual (having knowledge of an act, achievement, or service believed to warrant the soldier's receiving an award) must submit a formal recommendation through specific military channels. Only the President of the United States can approve a Medal of Honor. During the Vietnam War, the Deputy Commanding General of U.S. Army Vietnam had approval authority for the Distinguished Service Cross. Division commanders could approve awards of the Silver Star, the Bronze Star, and below.

In an April 1991 letter to you, a former officer with Company B, 1/506th Infantry--a unit of the 3rd Brigade, 101st Airborne Division--alleged that a soldier in Company B had not been properly awarded for his heroism in the battle of Hamburger Hill. Hamburger Hill was a bloody, 11-day fight waged between May 10 and May 20, 1969, during Operation Apache Snow; 46 3rd Brigade

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soldiers were killed and over 400 others were wounded in the battle.

According to the former officer, the soldier performed heroically, and his actions contributed significantly to the battle's favorable outcome. The former officer cited two occasions of valorous actions: one performed on May 16 and the other on May 18, 1969. According to the former officer, on May 16 the soldier was wounded when he led his men in repulsing an assault by a numerically superior enemy force. On May 18 the soldier destroyed an enemy machine gun emplacement that blocked his company's advance and also selflessly risked his life to destroy an enemy ammunition bunker. The destruction of the bunker caused a massive secondary explosion that essentially ended the battle. When the soldier destroyed the bunker, he was wounded a second time.

The former officer claims that in 1969 he submitted two separate written award recommendations for the soldier; a recommendation for a Silver Star for his actions on May 16, 1969, and a recommendation for a Silver Star with a possible upgrade to the Medal of Honor for those of May 18, 1969. The soldier received a Bronze Star Medal for Valor for his actions on May 18. We found no record of an award for his actions on May 16.

#### RESULTS IN BRIEF

The former soldier was never recommended for the Medal of Honor for his actions on May 18, 1969. He was recommended for a lower award and received the Bronze Star for Valor. In the review process for his Bronze Star medal his commanders had the authority to award him a higher medal, including recommending the Medal of Honor, if in their judgment it was warranted. There was no evidence of processing errors or injustice in the Army's decision to grant the soldier this award.

The former soldier may be eligible to receive military honors for his actions on May 16, 1969. The Army considers award recommendations without regard to time limitations when it can be shown that a properly submitted recommendation was lost or not acted upon. The former officer claims that he recommended the soldier for a Silver Star for actions on May 16, 1969, and that this recommendation was lost. The Army informed the former officer in 1971 that he needed to resubmit certain

documents for the Army to process a lost recommendation, but he has yet to resubmit them. Until the former officer submits a lost recommendation claim, the Army will not consider the former soldier for additional honors. If, however, the former officer were to submit a lost recommendation claim and the Army were to rule against it, a new award recommendation would have to be submitted for the soldier to be reconsidered. Under this scenario, the passage of a private bill by Congress would be required to waive the deadline for submission of a new award recommendation.

The former soldier was awarded the Purple Heart for the wound he received on May 18. If evidence is submitted showing that he was also wounded on May 16 he may be entitled to an additional award of the Purple Heart, time deadlines not withstanding.

THE ARMY FOLLOWED PROCEDURES WHEN IT  
GRANTED THE SOLDIER THE BRONZE STAR MEDAL

A review of recommendations processed by the 101st Airborne Division for awards above the Silver Star and an interview with the former officer disclosed that the soldier was never directly recommended for the Medal of Honor. Instead, he was recommended for a lower medal and on August 27, 1969, was awarded the Bronze Star Medal for Valor for his heroism on May 18, 1969. In interviews with four officers involved in processing the original award we found no basis for questioning the original judgment. Also, they did not recall any processing error or injustice that would support a review by the Army Board for the Correction of Military Records.<sup>1</sup>

We could not determine what award the soldier was originally recommended to receive. Prior to 1971, award recommendations for awards of the Silver Star and below were destroyed after 2 years in accordance with Army policy in effect at the time. We could, however, determine that the soldier had not been recommended for an award higher than the Silver Star (the Medal of Honor, for

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<sup>1</sup>An example of a processing error would be an award that was not forwarded through required command channels. An example of an injustice would be a policy to restrict medals to enlisted soldiers.

example). Complete files of recommendations processed by the 101st Airborne Division for awards above the Silver Star (the Medal of Honor and the Distinguished Service Cross) are at the National Archives. Included in these files are recommendations that were disapproved. We found no record of recommendations for these higher awards for the soldier at the Archives.

Although the soldier was not directly recommended for the Medal of Honor, the soldier's commanders who reviewed his recommendation had the authority to award or recommend a higher level award on the basis of the narrative presented in the recommendation. This includes a recommendation for the Medal of Honor if, in their judgment, it was warranted.

We discussed award policies and processing procedures in place at the time of the battle with four of the former soldier's former commanders who processed his award. These former officers stated that following the battle many awards were processed for men in the battalion but that after more than 20 years they could not remember specific recommendations. They could not recall any recommendation having been made for the Medal of Honor for anyone. Because of its significance they believe they would remember such a recommendation if one had been submitted. They stated that the brigade had an active awards program. As a rule, they said most awards were approved as submitted, but awards were occasionally downgraded or upgraded. Additionally, they said that it is entirely possible that award recommendations were lost because the brigade was geographically dispersed.

The Army's award regulation states that the decision to award an individual a decoration and the decision as to which award is appropriate are subjective decisions made by the commander who has award approval authority. According to the former officers, there was no policy or attempt to hold down either the number or type of awards presented. Our examination of military records shows that of approximately 110 soldiers in Company B at least 6 were awarded Silver Stars and 31 were awarded Bronze Stars for Valor for their actions in the battle of Hamburger Hill.

The Army has a process for reviewing award decisions if requested. The Army Board for the Correction of Military Records will review award decisions if there are claims of

processing errors or injustices. To date, the Board has not received a request to review this award.

THE SOLDIER MAY BE ELIGIBLE FOR  
ADDITIONAL MILITARY HONORS

Under Public Law 93-469 a written recommendation for award of a decoration for an act performed in direct support of a military operation during the Vietnam conflict must have been submitted not later than October 24, 1975. However, this time deadline would not apply in situations where properly submitted award recommendations were lost or, through inadvertence, not acted upon.

The former officer claims that he recommended the soldier for a Silver Star for his actions on May 16, 1969, and that the recommendation was lost or not processed. According to Army Military Awards Branch officials, in cases where a lost recommendation is alleged, the Army requires conclusive evidence that the recommendation was submitted into formal military channels within the time limit. According to the officials, the evidence must be of a convincing nature and leave little, if any, doubt that a recommendation was submitted. Examples of acceptable documents include daily logs, operations reports, or eyewitness statements submitted with other award recommendations.

The Army has reviewed the officer's claims in this case at least four times since 1971. In February 1971 the Office of the Army Inspector General informed the former officer that it could find no irregularities in award processing following the events of May 10 through 20, 1969. In November 1971 the Office of the Army Inspector General informed the former officer that it could not find any award recommendations that may have been submitted for the former soldier. At this time, the Army instructed the former officer that he would need to submit certain documents that the Army needed to process a lost recommendation. When we interviewed him in October 1992 the former officer told us that he has not submitted the requested documents. Army officials told us that they would consider the officer's lost recommendation claim if he filed it. Finally, the Army responded twice to congressional inquiries about the former officer's claim. The Army stated in November 1988 that it would not reconsider a properly processed award because to do so, they said, would be to repudiate the judgment of the

officers in the original decision. In August 1991, the Army responded that time limits for submission of award recommendations for actions during the Vietnam conflict had expired.

If the Army turns down a lost recommendation claim, a new award recommendation may be submitted. However, Public Law 93-469 established October 1975 as the deadline for submission of recommendations for awards for military actions in Vietnam. Since the deadline established by the statute has passed, the submission of an award recommendation at this time would require the passage of a private bill by Congress.

THE SOLDIER COULD QUALIFY FOR ADDITIONAL AWARDS OF THE PURPLE HEART

According to the former officer, the former soldier was wounded more than once during the battle of Hamburger Hill. If this is the case, he may be eligible for additional awards of the Purple Heart--oak leaf clusters.

Among other criteria, the Purple Heart is awarded to any service member who has been wounded or killed in any action with an opposing armed force. Not more than one award is made for more than one wound or injury received at the same instant or from the same missile, force, explosion, or agent. The wound must have required treatment by a medical officer, and records of medical treatment for wounds or injuries received must be in the individual's official service records.

According to an Army awards official, the requirement for documentation of medical treatment is sometimes waived. They recognize that during combat wounded personnel are not always able to receive medical treatment and that treatment administered in the field is sometimes not entered into official military records. In lieu of medical records, the Army requires conclusive evidence that an individual was wounded. The official stated that the evidence must be more than an assertion by the individual in question. Statements from several witnesses who can provide details are generally sufficient.

SCOPE AND METHODOLOGY

We examined laws and Army and Department of Defense regulations on military awards and interviewed officials

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who process awards at the Military Awards Branch, U.S. Total Army Personnel Command. We also examined records relating to awards for the 101st Airborne Division at the National Archives in Suitland, Maryland, and the Military Awards Branch, U.S. Total Army Personnel Command, in Alexandria, Virginia. The National Archives had copies of the military award case files for all Medal of Honor and Distinguished Service Cross recommendations, and the Military Awards Branch had documents supporting all awards made by the 101st Airborne Division during the Vietnam War.

While we did not speak directly with the soldier, we reviewed his Official Military Personnel File for award recommendations made on his behalf and awards presented to him. We interviewed the former officer who made the claims on behalf of the soldier and other former officers involved in processing awards for the men of Company B, 1/506th Infantry, 101st Airborne at the time the soldier was there. Our work was conducted from October to December 1992 in accordance with generally accepted government auditing standards.

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This report was prepared under the direction of Henry L. Hinton, Jr, Director of Planning, who may be reached on (202) 275-6226 if you or your staff have any questions.

Sincerely yours,



*fa* Frank C. Conahan  
Assistant Comptroller General

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