



Australian Government

Defence Honours and Awards Appeals Tribunal

Cox and the Department of Defence Re: Chatfield [2016] DHAAT 33 (5 September 2016)

File Number(s) 2015/002

Re **Dr Peter Cox on behalf of Mr Harold Bertie Chatfield**
Applicant

And **Department of Defence**
Respondent

Tribunal Brigadier K.J. O'Brien CSC (Retd) (Presiding Member)
Air Vice-Marshal A.J. Quaife AM (Retd)

Hearing Date 29 June 2016

DECISION

On 5 September 2016, the Tribunal decided to recommend to the Minister that:

- a. the decision of the Directorate of Honours and Awards of the Department of Defence to refuse to recommend Mr Harold Bertie Chatfield for the Distinguished Flying Medal be affirmed, and
- b. the Minister recommend to the Governor-General that Mr Harold Bertie Chatfield be awarded the Commendation for Gallantry.

CATCHWORDS

DEFENCE Honour – refusal to recommend the award of the Distinguished Flying Medal – World War Two - Burma

LEGISLATION

Defence Act 1903 as amended –ss 110T, 110V(1), 110VB(1)
Defence Force Regulations 1952 – Regulation 93C and Schedule 3
Defence Legislation Amendment Act (No 1) 2010 – Schedule 1 Part 2

Institution of Distinguished Flying Cross, Air Force Cross, Distinguished Flying Medal and Air Force Medal, Ninth Supplement to The London Gazette No 30723 dated 3 June 1918.

Royal Warrant instituting decorations and medals for the Royal Air Force, The London Gazette No 31674 of 5 December 1919.

Commonwealth of Australia Gazette No S25 of 4 February 1991, Gallantry Decorations Regulations.

REASONS FOR DECISION

Introduction

1. The applicant, Dr Peter Cox (Dr Cox) on behalf of Mr Harold Bertie Chatfield (Mr Chatfield), seeks review of the decision of the Directorate of Honours and Awards of the Department of Defence (the Directorate) not to support a recommendation for Mr Chatfield to be awarded the Distinguished Flying Medal (DFM). Mr Chatfield was a Royal Australian Air Force (RAAF) Spitfire pilot in No 615 Royal Air Force (RAF) Squadron (615SQN), based in Burma during 1943 and 1944. He held the rank of Flight Sergeant (FSGT) whilst serving in that squadron.

Tribunal Jurisdiction

2. Pursuant to ss 110VB(1) of the *Defence Act 1903* (the Defence Act) the Tribunal has jurisdiction to review a reviewable decision relating to a Defence honour if an application is properly made to the Tribunal. The term *reviewable decision* is defined in s110V(1) and includes a decision made by a person within the Department of Defence or the Defence Force to refuse to recommend a person for a Defence honour in response to an application.

3. Regulation 93B of *Defence Force Regulations 1952* defines a Defence honour as those honours set out in Part 1 of Schedule 3. Included in the Defence honours set out in Part 1 is the DFM. The Tribunal considered that the Directorate's refusal to recommend Mr Chatfield for the DFM constitutes a reviewable decision. Therefore, the Tribunal has jurisdiction to review this matter.

4. In accordance with s110VB(1) of the Defence Act, as the matter under review concerns a Defence honour, the Tribunal does not have the power to affirm or set aside the decision but may make recommendations regarding the decision to the Minister.

Conduct of the Review

5. On 8 May 2014, Dr Cox, a family friend of Mr Chatfield, applied by letter co-signed by Mr Chatfield to the Directorate, for the DFM for Mr Chatfield's services

whilst serving with 615SQN during World War Two. On the same day, Dr Cox, on behalf of Mr Chatfield, completed a 'Lodgement of Submission' form with which he included the above letter. The form was signed by both Dr Cox and Mr Chatfield.

6. On 15 May 2014, the Executive Officer of the Tribunal, acknowledged Dr Cox's application to the Tribunal on behalf of Mr Chatfield. Dr Cox was advised that before the Tribunal could proceed to review the matter, it would need to receive evidence that Defence had denied Mr Chatfield's application for the DFM. On 10 July 2014, Dr Cox provided the requested letter of denial from the Directorate. Defence had advised that:

...The Australian Government does not support retrospective assessment of gallantry awards, and therefore cannot support a nomination for a Distinguished Flying Medal for your service in the Royal Australian Air Force in World War 2.¹

7. On 22 January 2015, in accordance with the *Defence Honours and Awards Appeal Tribunal's Procedural Rules 2011*, as amended in 2013, the Tribunal wrote to the Secretary of the Department of Defence advising him of Mr Chatfield's application for review and invited the Secretary to make submissions and provide the Tribunal with any material on which the Department of Defence sought to rely. The Tribunal advised Dr Cox that it had accepted his application for review on behalf of Mr Chatfield on 23 January 2015.

8. On 12 March 2015, Dr Cox was advised by the Tribunal's Executive Officer that as Mr Chatfield was a member of the RAAF who had served with the RAF, Defence had requested, but not yet received, supporting information from the United Kingdom. Accordingly, Defence had sought and been granted, an extension to their submission date and their response was now anticipated to be provided to the Tribunal around mid-June 2015.

9. On 17 June 2015, Defence provided its submission. The Directorate advised that it had referred the matter to Air Force Headquarters (AFHQ) with a request that it:

...conduct a review of Dr Cox's claim that Mr Chatfield is eligible for the DFM, with particular consideration as to whether his service history, records and other available evidence supported consideration of the award of the DFM.²

10. AFHQ advised that there was no evidence found in RAAF files that Mr Chatfield had been recommended for the DFM. AFHQ also advised that, as he served in a RAF unit, any recommendation for the DFM would have been submitted through the RAF. AFHQ advised that it had sought confirmation from the RAF in March 2015, but that no information had been received. AFHQ concluded that:

...As Mr Chatfield's flying service and the events for which he is seeking recognition occurred while operating predominantly with a RAF unit, the

¹ Letter from the Directorate of Honours and Awards to Mr H Chatfield ,AF18101648, 23 June 2014 para 5

² Defence Submission, DH&A/OUT/2015/0132, 17 June 2015 para 2

*records for which the RAAF is unable to obtain, RAAF finds that there is insufficient evidence to support a recommendation for the award of the DFM...*³

11. Dr Cox was provided with a copy of the Defence Submission on 24 June 2015, and was requested to provide his comments and to provide any further material he may have in support of the application. Dr Cox's and Mr Chatfield's comments on the Defence submission were received by the Tribunal on 26 August 2015. Dr Cox's response to the Defence report was one of disappointment. He stated that:

*...it is extremely limited in terms of correct and adequate information...The RAAF has not made the effort to obtain the RAF documents that would collaborate our claims. We believe that the RAF report has such limited evidence that they can make no claims either way and that they need to make more effort to obtain such evidence... I am most frustrated by the time this process is taking. Harold is now 95 years old and before he dies I believe he deserves recognition...*⁴

12. The Tribunal met on 10 December 2015. During its meeting the Tribunal considered the material provided by Mr Chatfield and the Directorate as well as the extensive research material obtained by the Secretariat. Copies of all the research material, collected by the Tribunal Secretariat were forwarded to Dr Cox and Mr Chatfield for their information. The Tribunal also considered the issue of the lack of research material available from the RAF, and if that lack of information was a major factor in progressing the review. Given Mr Chatfield's age, it was decided to proceed to the hearing and to then determine whether to delay proceedings further whilst awaiting RAF advice.

13. The Tribunal noted that the Valour Inquiry had addressed the issue of retrospective honours and awards.⁵ The Valour Inquiry developed guidelines that would be able to be applied in any later reviews and the Tribunal noted that Defence had used this guidance in reaching their recommendation and decision on eligibility for Mr Chatfield.

14. The guidelines suggest that the first step in examining retrospective honours should be the conduct of a review to determine whether due process had been followed. This step should include 'an attempt to determine whether there is a case of maladministration and whether new evidence has come to light'. The guidelines suggest that if due process had been followed, there was no maladministration, and if there was no new evidence, the original decision should remain unchanged.

15. Notwithstanding this guidance, it should be noted that Section 110VB of the Defence Act requires the Tribunal to undertake a merits review of all reviewable decisions, where an application for review has been properly made. Accordingly, the

³ AFHQ /AB22898078, 10 June 2015 para 15, received under cover of Defence Submission, 17 June 2015

⁴ Letter from Dr Cox to the Tribunal, received via e-mail, 26 August 2015

⁵ Defence Honours and Awards Appeals Tribunal, *Report of the Inquiry Into Unresolved Recognition for Past Acts of Naval and Military Gallantry and Valour* dated 21 January 2013

Tribunal proceeded to conduct a process review of Mr Chatfield's claims and, even if a case of maladministration could not be proven, the Tribunal would also proceed with a merits review of the decision concerning Mr Chatfield's actions from October 1943 to August 1944.

16. The Tribunal noted that in accordance with its *Procedural Rules 2011* the hearing into this matter would need to be conducted in public and accordingly, Mr Chatfield and Dr Cox were invited to provide evidence at a hearing which was held in Bendigo on 29 June 2016. Defence was also invited to attend the hearing but declined, indicating that there was nothing further they could add to the information already provided.

17. On 11 August 2016, the Tribunal received advice from Defence, essentially confirming that no additional information was held on RAF files within the UK Ministry of Defence.

Distinguished Flying Medal Regulations

18. The Distinguished Flying Medal (DFM) along with the Distinguished Flying Cross (DFC), the Air Force Cross (AFC) and the Air Force Medal (AFM) were announced in the *London Gazette* on 3 June 1918, to mark the birthday of His Majesty, King George V. The Royal Warrants with their regulations for the air honours were not published in the *London Gazette* until 5 December 1919. The DFM was awarded to non-commissioned officers and men for an act or acts of valour, courage or devotion to duty performed whilst flying in active operations against the enemy. The DFC was awarded to commissioned officers in the same circumstances as the DFM.

19. The DFM was awarded to personnel of the RAF and other Defence services who flew aircraft. The medal was also awarded to personnel of other Commonwealth countries, notably the RAAF. Since 1992, no nominations for the DFC, the AFC and their respective medals have been made by Australia.

Gallantry Decorations Regulations

20. The *Commonwealth of Australia Gazette* No S25 dated 4 February 1991, created the Letters Patent for the Australian Gallantry Decorations which provides for recognition of members of the Defence Force and certain other persons who perform acts of gallantry in action.⁶ The conditions for these awards are referred to as the Gallantry Decorations Regulations (the Regulations).

21. The Regulations stipulate the following conditions for award of decorations at Regulation 3:

(1) The Star of Gallantry shall be awarded only for acts of great heroism or conspicuous gallantry in action in circumstances of great peril.

⁶ *Commonwealth of Australia Gazette* No. S25, 4 February 1991

(2) *The Medal for Gallantry shall be awarded only for acts of gallantry in action in hazardous circumstances.*

(3) *The Commendation for Gallantry may be awarded for other acts of gallantry in action which are considered worthy of recognition.*⁷

22. Regulation 7 stipulates that awards of a decoration shall be made by the Governor-General on the recommendation of the Minister.⁸

Defence records of Mr Chatfield's service

23. Mr Chatfield enlisted for aircrew training with the RAAF on 28 February 1941, aged 20 years, and was given service number 401493. Mr Chatfield was posted to the RAF and embarked on 27 June 1941 to undertake pilot training in No 26 Elementary Flying Training School, Southern Rhodesia. He was awarded his Flying Badge on 23 December 1941. On 28 February 1942, Mr Chatfield was promoted to temporary Sergeant and re-mustered as an Airman Pilot. On 9 April 1942, he proceeded to the UK reaching the RAF training base at Bournton, England on 4 May 1942.

24. After Mr Chatfield completed further RAF Operational Training Courses in the UK, he was taken on strength in the RAF's Indian establishment on 16 June 1943. Mr Chatfield was promoted to Flight Sergeant on 19 July 1943. He disembarked in India on 14 August 1943 to serve with the RAF Station, Armarda Road, India. On 16 October 1943 he was posted to 615SQN, known as Churchill's Own Squadron⁹ in Burma, to fly Spitfires on ground-attack and air defence sorties against the Japanese.

25. On 2 January 1944, Mr Chatfield was admitted to hospital for a period of three months. Following his release from hospital in April 1944, he was posted back to 615SQN to resume duties as a pilot. Mr Chatfield was discharged on 29 June 1944 to be commissioned as a provisional Pilot Officer. On 30 December 1944, Mr Chatfield was promoted to Flying Officer (FLGOFF).

26. Mr Chatfield was discharged from active service 14 December 1944 in order to receive a temporary commission as a FLGOFF pilot instructor with the RAF Indian Air Force. He held this position until 27 June 1945.¹⁰ Mr Chatfield returned to Australia on 23 October 1945 and was discharged from the RAAF on 14 December 1945 when his 'commission was terminated on demobilisation'.¹¹

⁷ Ibid

⁸ Ibidf

⁹ 615SQN was named "Churchill's Own" having previously been known as "the County of Surrey Squadron". The British Prime Minister Mr Winston Churchill is its Honorary Air Commodore. An article drafted for *Wings* states that this squadron was of particular interest to Australia, because the Commanding Officer was Squadron Leader DW McCormack, DFC and Bar, of Victoria, while the two flight commanders were also Australian. Altogether there were 15 Australians flying Spitfires in the squadron. (The draft *Wings* article, written by FLTLT NK Welsh, is in AWM173, 4/2/7, Barcode 8721996)

¹⁰ Page 12-13 of Air Force India Confidential Report (Officers)

¹¹ Page 19 Air Forces India service record

27. For his service, Mr Chatfield has been awarded the following:

- 1939-45 Star
- Burma Star
- Defence Medal
- War Medal
- Australia Service Medal 1939-45
- Returned from Active Service Badge

Summary of Mr Chatfield's Claim

28. Dr Cox, on behalf of Mr Chatfield, is seeking an honour for Mr Chatfield for his actions in the air war in Burma, citing two specific occasions: Boxing Day 1943 and 17 June 1944. Dr Cox has stated that it was Mr Chatfield's actions on both of these occasions, combined with his performance in attacks against Japanese positions, vehicles and water craft that had prompted his Commanding Officer, Squadron Leader (SQNLDR) David McCormack, DFC & Bar, to state that he would put Mr Chatfield in for a 'gong' (which Mr Chatfield believed was a DFM). This conversation is said to have taken place on the morning of 10 August 1944; the date of SQNLDR McCormack's death as a result of a flying accident in violent tropical weather over Burma. Dr Cox has submitted that due to SQNLDR McCormack's death, the DFM nomination paperwork was never written and Mr Chatfield consequently missed out on his 'long-ago promised gong'.

Official History

29. Mr Chatfield is mentioned in the official history as follows:

On 26 December 1943, the Japanese, encouraged by this success, sent over another big raiding force. At 11:15am Flying Officer GW Andrews and Flight Sergeant Chatfield of 615 SQN were scrambled from the Dohazari airfield and were given directions to intercept one enemy aircraft. However, soon after they were airborne, the Japanese aircraft increased to at least six, then 20 and then to more than 50. Andrews and Chatfield, meanwhile, had been ordered to circle base and wait for the rest of the squadron to join them. While doing this they saw an enemy formation of 20 bombers with 50 fighters weaving and making large sweeps around the bombers. Andrews and Chatfield, although faced by more than 70 enemy aircraft, immediately gave battle and both made several skilful attacks on the enemy formation. Watchers on the ground saw three bombers and one fighter crash. Soon afterwards Chatfield and Andrews landed. The rest of the squadron did not make contact.¹²

The 'watchers on the ground', referred to above, included the commanding officer (CO) of 615SQN SQNLDR R.H. Holland DFC (RAF) together with other members

¹² Odgers, George, Australia in the War 1939-1945, Official History, Series 3, *Air War Against Japan 1943-1945*, page 277

of that squadron. The CO of 82 SQN SQNLDR G.L. Gibbs (member of 221 Group RAF) was also 'watching through field glasses with members of his Squadron from a different point, at the time of the attack...'.¹³

Other Official Records

30. The Tribunal reviewed a range of files related to (then) Flight Sergeant (FSGT) Chatfield's service with 615SQN. One file in particular¹⁴ included extracts from the 615SQN operations log from November 1943 through to September 1944. The file also contains letters of congratulation addressed to FLGOFF Andrews and FSGT Chatfield from Wing Commander (WGCDR) G.A. Pape, the RAAF Liaison Officer to Air Command South East Asia (ACSEA) regarding the Boxing Day 1943 engagement. There is another letter from WGCDR Pape to the Overseas Headquarters of the RAAF in London recording the efforts of FLGOFF Andrews and FSGT Chatfield that includes an extract of the 615SQN Operational Report of the incident.

31. The operations log indicates that FSGT Chatfield was flying as wingman to FLGOFF Andrews in the air encounter with the Japanese on 26 December 1943. FLGOFF Andrews and FSGT Chatfield were flying under the direction of a ground controller who detected the Japanese aircraft by radar. The ground controller became aware that FLGOFF Andrews and FSGT Chatfield were seriously outnumbered by the Japanese attacking force. In an attempt to generate support, FLGOFF Andrews and FSGT Chatfield were instructed to hold off from intercepting the Japanese force and remain at altitude above their home base at Dohazari while additional aircraft were scrambled.

32. FLGOFF Andrews and FSGT Chatfield have described in the operational report that while holding above the airfield, FLGOFF Andrews gained sight of a formation of six Japanese fighter aircraft. FLGOFF Andrews initiated an attack on the fighters and FSGT Chatfield followed his lead. On pulling up from this initial attack, FLGOFF Andrews and FSGT Chatfield sighted the Japanese bomber formation below. FLGOFF Andrews and FSGT Chatfield dived on the bomber formation, each pressing home an attack on a separate bomber aircraft. FLGOFF Andrews and FSGT Chatfield then climbed to reposition for a second attack on the bomber formation and FSGT Chatfield gained visual contact with escorting Japanese fighter aircraft that were turning to engage. The Japanese fighter aircraft were unable to overtake the faster Spitfire aircraft and FLGOFF Andrews and FSGT Chatfield were each able to complete a second firing pass on the Japanese bomber aircraft.¹⁵

33. FLGOFF Andrews and FSGT Chatfield were the only two pilots in the Squadron to engage this large Japanese bomber force. Their successful attack resulted

¹³ 615 Squadron OPREP Serial No. 141 dated 26th December 1943, File:[*Preliminary Narrative of RAAF activities in Air Command South East Asia. Narrator Flight Lieutenant WH Newnham. File contains unit histories of various squadrons including 615 Squadron*], AWM173, 4/2/7, Barcode 8721996

¹⁴ Ibid

¹⁵ Ibid, 615 Squadron OPREP Serial No.141 dated 26th December 1943, and oral submission Mr Harold Chatfield, 29 June 2016.

in FLGOFF Andrews claiming one Sally (Mitsubishi Ki-21 medium bomber) and one Oscar (Nakajima Ki-43 tactical fighter aircraft) destroyed and one additional Sally damaged, and for FSGT Chatfield, two Sallys destroyed.

34. The historical records indicate that in his next major air encounter with the Japanese on 17 June 1944, FSGT Chatfield was in a patrol of seven aircraft, led by FLGOFF K.F. Gannon.¹⁶ FLGOFF Gannon and his patrol dived into the attack and later, he confirmed another Oscar destroyed by FSGT Chatfield. This action is less well documented although the operations log shows the initiating intercept was conducted against a force of '20 plus' bandit aircraft. From other entries in the operations log, large aircraft formations were typical Japanese tactics in the Burma theatre.

35. The 615SQN operations log specifically records FSGT Chatfield's involvement in four scrambles to intercept Japanese formations additional to the successful intercepts already described. FSGT Chatfield is also mentioned in escort duties for supply drops, bombing attacks and 'Rhubarb' missions against defended Japanese positions, motor transport and river craft.¹⁷

The Defence Submission

36. The Directorate responded to Mr Chatfield's application of 8 May 2014, outlining the End of War List process and His Majesty King George VI's decree that no more recommendations in relation to gallantry, or meritorious service during World War Two would be reassessed. The response also stated that the Australian Government does not support retrospective assessment of gallantry awards and therefore Mr Chatfield's nomination for the DFM was not supported.

37. In the Defence submission,¹⁸ it is stated that, following Dr Cox's Tribunal application, the Office of Air Force History (OAFH) was tasked to conduct a historical review of previous decisions made in relation to Mr Chatfield's recognition of service and confirm the details in Mr Chatfield's application. The Defence submission goes on to state that 'the OAFH found that there was no evidence in Mr Chatfield's personal file that he was recommended for a DFM. It was found that he did all his operational flying with the Royal Air Force (RAF), principally with No 615 Squadron.'¹⁹ OAFH indicated that any recommendations for the DFM for Mr Chatfield would have been submitted through the RAF.

38. The Defence submission also states that: 'A decision was not made historically regarding Mr Chatfield's service as his supervisor was killed in action. No paperwork

¹⁶ 615SQN Unit History entry 17/6/44, File: [*Preliminary Narrative of RAAF activities in Air Command South East Asia. Narrator Flight Lieutenant WH Newnham. File contains unit histories of various squadrons including 615 Squadron*], AWM173, 4/2/7, Barcode 8721996, 615SQN

¹⁷ The 'Rhubarb' codename refers to armed reconnaissance missions typically flown at low level against targets of opportunity.

¹⁸ Defence Submission DH&A/OUT/2015/0132, 17 June 2015

¹⁹ Ibid, Para 5

was ever raised to recommend him for the DFM.... As no decision has been made to date regarding Mr Chatfield's application, there is no statement of reasons.'²⁰

39. The Defence submission also states that Mr Chatfield's service records were examined by Air Force Headquarters (AFHQ), which confirmed his service periods. The Defence submission further states that 'as Mr Chatfield was a commissioned officer it appears that the DFC is the more appropriate award for consideration in this application'. Notwithstanding this statement, the AFHQ review found that there was 'insufficient evidence' to determine Mr Chatfield's eligibility for either of the Distinguished Flying awards without confirmation from documents held by the RAF.

Summary of Mr Chatfield's Oral Evidence

40. Mr Chatfield confirmed his service details and gave the Tribunal a description of his major actions against the Japanese when he was a spitfire pilot in Burma during late 1943 and 1944. Mr Chatfield confirmed that he commenced flying operational missions with 615SQN on 16 October 1943. He advised that he flew as wingman to FLGOFF Andrews in the first major encounter on Boxing Day 1943, when SQNLDR Holland was his CO. He also advised that he flew as wingman to FLTLT Gannon on the second major air encounter on 17 June 1944, when SQNLDR McCormack was his CO.

41. Mr Chatfield also described his discussion with SQNLDR McCormack on the day SQNLDR McCormack was killed. The Tribunal queried Mr Chatfield as to the actual words spoken by SQNLDR McCormack and the circumstances in which these were spoken. The Tribunal also queried if there had been any witnesses to this conversation. In response, Mr Chatfield advised that on 10 August 1944, he and one other Senior NCO pilot were required to leave the Squadron to attend an Officer Selection Board (in which he was ultimately successful). On the way to the 'dispersal area' he was accompanied by his then CO, SQNLDR McCormack. Mr Chatfield recalled that SQNLDR McCormack stated:

...you should have been put up for a gong.

There were no witnesses to this conversation.

42. In response to questions from the Tribunal Members, Mr Chatfield confirmed that neither FLGOFF Andrews, nor FLTLT Gannon, with whom he had flown as wingman in the combat engagements of Boxing Day 1943 and 17 June 1944 respectively, received a decoration for those air encounters. Mr Chatfield also confirmed that FLGOFF Gannon was appointed Temporary CO after the death of SQNLDR McCormack on 11 August 1944.

²⁰ Ibid, Para 8

The Tribunal's Consideration and Findings

43. The Tribunal found that the Defence submission erroneously suggests that Mr Chatfield was a commissioned officer at the time of the air encounters, however this error has no bearing on the Tribunal's considerations. Defence submitted that there is no evidence in Mr Chatfield's personnel file that he was recommended for the DFM. Through the OAFH, Defence also indicated that any recommendation would have been submitted through the RAF chain of command. A search has been completed of RAF records and no relevant information has been identified.

44. Dr Cox, on behalf of Mr Chatfield, and in response to the Defence Submission, has stated that:

he is an Australian Spitfire pilot who never got his "gong" due to an unfortunate series of events that occurred on August 11 1944 in the 615 RAF Squadron.²¹

The essence of Dr Cox's claim is that Mr Chatfield would have received the DFM if SQNLDR McCormack had not been killed on 10 August 1944.

45. Mr Chatfield has provided the Tribunal with his clear recollection of the conversation with his CO and the circumstances of that day. He advised that there were no witnesses to the conversation. As described by Mr Chatfield, the conversation occurred as he was about to depart Palel for his commissioning interview. SQNLDR McCormack was also about to leave Palel, leading the re-deployment of the squadron aircraft to Baigachi. During this re-deployment flight, violent tropical storms caused many of the Squadron's aircraft to crash and SQNLDR McCormack was one of four pilots killed.

46. The Tribunal considered SQNLDR McCormack's remark that: '...you should have been put up for a gong' to be quite important. One interpretation of this remark is that it was made in general appreciation of Mr Chatfield's efforts throughout the period and offered as encouragement for Mr Chatfield as he was about to depart for his commissioning interview. This was also the occasion when the balance of the squadron was about to rotate out of the 'front line'. It is impossible for the Tribunal to have certainty as to the reason why SQNLDR McCormack made this remark. However, the Tribunal has concluded that the CO's statement implies that Mr Chatfield had not been put up for a decoration at that time and also concluded that it did not necessarily indicate an intention to do so.

47. The Tribunal next considered if it was likely that any of Mr Chatfield's three COs had considered him for recognition for the specific incidents raised in his application. There were several changes in command during Mr Chatfield's service with 615SQN. At the time of the initial major engagement in December 1943, SQNLDR Holland, DFC, was Mr Chatfield's CO. SQNLDR Holland is reported to have witnessed the engagement overhead Dohazari on 26 December 1943. This engagement is well documented in the official history and in subsequent historical reports. Aside from the success achieved, this action drew attention as it was one of

²¹ Letter from Dr Cox to the Tribunal, received via e-mail, 26 August 2015, Final paragraph.

the first encounters fought between Spitfire aircraft and Japanese combat aircraft. Congratulatory notes sent to both FLGOFF Andrews and Mr Chatfield provide evidence that the Operational Reports of the engagement were brought to the attention of Air Tactics Section at HQ ACSEA and read by WGCdr Pape, the RAAF Liaison Officer. The Tribunal concluded that, although he was witness to the engagement, there is no evidence that SQNLDR Holland did nominate Mr Chatfield (or FLGOFF Andrews) for an award at that time.

48. Mr Chatfield became ill with malaria and was admitted to hospital on 21 January 1944. He remained in hospital for some months, returning to duty with 615SQN in May 1944. By this time, SQNLDR McCormack was in command.

49. Mr Chatfield's second successful air engagement occurred on 21 June 1944. The service records indicate that SQNLDR McCormack was himself in hospital at the time of this action, as he was recovering from injuries received in a plane crash on 29 May 1944. A period of eight weeks then passed after Mr Chatfield's success on 21 June and the reported discussion with his CO. Given the substance of SQNLDR McCormack's comment and the period of time that had elapsed, the Tribunal thought it unlikely that SQNLDR McCormack had an intention to recommend either FLTLT Gannon or Mr Chatfield for this particular action.

50. Finally, on SQNLDR McCormack's death, FLTLT Gannon (RAAF) was appointed Temporary CO. Unlike the churn in Commanding Officers, FLTLT Gannon was a senior squadron pilot throughout Mr Chatfield's 615SQN tour of duty. FLTLT Gannon flew with Mr Chatfield on a number of occasions and was his flight leader for the engagement on 21 June 1944. FLTLT Gannon had consistent close observation of Mr Chatfield's service with 615SQN. Although FLTLT Gannon's period in command of the squadron was limited to one month, he remained a squadron Flight Commander until well after Mr Chatfield left the squadron on posting. There is no evidence that FLTLT Gannon made any recommendation on behalf of Mr Chatfield.

51. The Tribunal finds that Mr. Chatfield's actions and service were probably considered by each of his COs during his tour of duty with 615SQN. There is no evidence that any recommendation for recognition was made. While SQNLDR McCormack's comment was unfortunate in its timing, there is no evidence of maladministration in previous consideration, nor is any new evidence available that was not available to squadron executives at that time.

52. In considering the implications of Mr Chatfield's conversation with SQNLDR McCormack of the morning of SQNLDR McCormack's fatal accident, the Tribunal formed the view that even if the CO's comment indicated an intention to submit a nomination for recognition, this itself was no guarantee of the success assumed by Dr Cox in his submission. Actions within 615SQN's theatre of operations were being recognised and any recommendations would have been considered within a relative merit context. Based on the evidence available, the Tribunal can only conclude that his successive Commanding Officers did not consider his actions deserved recognition through the honours system at that time. The Tribunal found this to be a relevant, but not decisive, consideration. The Tribunal also gave weight to the fact that neither FLTLT Andrews nor FLTLT Gannon received the

DFC at that time for their more critical part in the actions involving Mr Chatfield. The Tribunal found that it did not have sufficient grounds to support a recommendation for a DFM for Mr Chatfield, were it to be available.

53. Having found the contemporary (1943/1944) nomination of Mr Chatfield to be unlikely and having found that the Tribunal did not have sufficient grounds to support a nomination for the DFM, the Tribunal turned to an assessment of Mr Chatfield's actions against the eligibility criteria for the current Australian gallantry awards.

54. The Tribunal found that Mr Chatfield's overall actions during operations in the period of his service with 615SQN were clearly commendable and his specific actions on Boxing Day 1943 were worthy of recognition. The Tribunal also noted that Mr Chatfield's actions have been written into Australia's history of war in the air in World War Two and, as such, his role in the defence of his country has not gone unrecognised.

55. The Tribunal considered Mr Chatfield's exemplary record of service and his participation in attacks against large enemy aircraft formations in a hostile air environment, specifically his well-documented role in the Boxing Day air encounter. The Tribunal concluded that Mr Chatfield's actions merit recognition by the award of the contemporary Commendation for Gallantry. The detailed record of the Boxing Day 1943 encounter describes a very well executed and gallant attack against a significantly larger force of defended aircraft. FLGOFF Andrews demonstrated admirable leadership in attacking this large Japanese force; and Mr Chatfield gallantly executed his role as wingman in exemplary fashion managing to keep track of the opposing fighter aircraft whilst successfully shooting down two bomber aircraft.

56. While the available evidence of Mr Chatfield's other actions is less detailed, the Tribunal again noted Mr Chatfield's gallantry in pressing home a successful attack against enemy aircraft while significantly outnumbered, and his success in attacks against defended ground positions, motor transport and river craft.

57. The Tribunal noted that Mr Chatfield's actions were conducted in direct combat with the enemy. His gallantry, flying skill, accuracy of aim and devotion to duty in closely supporting his flight leader against significant odds on Boxing Day 1943 is well documented and was an act worthy of recognition in the Australian honours system. For these reasons, the Tribunal finds that Mr Chatfield's actions in the air war in Burma, satisfy the eligibility criteria for the award of the Commendation for Gallantry.

DECISION

58. The Tribunal decided to recommend to the Minister that:
- a. the decision of the Directorate of Honours and Awards of the Department of Defence to refuse to recommend Mr Harold Bertie Chatfield for the Distinguished Flying Medal be affirmed, and
 - b. the Minister recommend to the Governor-General that Mr Harold Bertie Chatfield be awarded the Commendation for Gallantry.