



Australian Government

Defence Honours and Awards Appeals Tribunal

Lowis and the Department of Defence [2017] DHAAT 05 (14 June 2018)

File Number(s) 2017/007

Re **William Charles Lowis**
 APPLICANT

And **Department of Defence**
 RESPONDENT

Tribunal Ms Naida Isenberg (Presiding Member)
 Brigadier K.J. O'Brien CSC (retd)

Hearing Date 30 May 2018

DECISION

1. On 14 June 2018 the Tribunal decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that William Charles Lowis is not eligible for the award of the Vietnam Logistic Support Medal.

CATCHWORDS

DEFENCE AWARD – Vietnam Logistic Support Medal – area of operations – “in support of” – claimed similarities with Ubon service.

LEGISLATION

Defence Act 1903 – Part VIIIIC – Sections 110T, 110VB(2)
Defence Legislation Amendment Act (No 1) 2010 – Schedule 3 Part 2
Commonwealth of Australia Gazette S79 dated 10 March 1993 Letters Patent and Regulations for the Vietnam Logistic and Support Medal

REASONS FOR DECISION

Introduction

1. William Charles Lewis served in a number of Royal Australian Navy ships between 6 July 1962 and 5 July 1978. He has sought the award of the Vietnam Logistic Support Medal (VLSM) in respect of his service during the Vietnam conflict. He made several applications to Defence, the most recent of which was refused on 7 May 2010, on the basis that he did not serve in the designated area of operations. He now seeks review of that decision by this Tribunal.
2. The issues that arise are:
 - a) What does Mr Lewis seek?
 - b) Does Mr Lewis' service qualify for the VLSM?
 - c) If not, are there any grounds for recommending extending the eligibility for the VLSM to meet Mr Lewis' circumstances?

What does Mr Lewis seek?

3. Although in his Application for Review Mr Lewis had also referred to the Australian Active Service Medal and the Return from Active Service Badge, he informed the Tribunal that he did not press those matters. In any event, the Tribunal has no jurisdiction with respect to the Return from Active Service Badge.
4. During the hearing Mr Lewis stated that he wants to receive a Department of Veterans' Affairs Health Card ("Gold Card") and understood that in order to be eligible he needs to have his service for the award of the VLSM recognised.

Does Mr Lewis' service qualify for the VLSM?

5. The VLSM eligibility criteria set out in the Regulations specify that during the period 29 May 1964 to 27 January 1973 the Medal may be awarded for service of 1 day or more in the area of operations of Vietnam. In summary, a ship needs to have been operating within 182.5 kilometres west of the Vietnam coast. The critical issue for Mr Lewis is whether he served in the area of operations.
6. HMAS Supply's Report of Proceedings for the relevant period were investigated and provided to Mr Lewis. At no time while Mr Lewis served in *Supply* was it in the area of operations. At the hearing Mr Lewis conceded that he did not serve in the area of operations aboard *Supply* nor any other vessel. Consequently, Mr Lewis' application for the VLSM cannot succeed.

Are there any grounds for recommending extending the eligibility for the VLSM to meet Mr Lewis' circumstances?

7. In his application to the Tribunal, Mr Lewis stated:

I formally propose that due diligence should apply to relevant Naval Service in supporting the Vietnam Campaign remotely and outside the designated Operational Area.

8. Mr Lewis contended in his application and repeated during the hearing, that his service both in HMAS Melbourne and later in HMAS Supply was operating in support of the Vietnam War even though that service was not in the designated area of operations.
9. By way of example, Mr Lewis said that HMAS Melbourne had loaded "...ammunition, cartridges, bombs and... Tartar Missiles." from San Francisco and San Diego in 1967 and that these were destined ultimately for issue to ships that served on the gun line in Vietnam. Mr Lewis also said that in 1972 HMAS Supply transported fuel and did a number of refuelling operations with ships that also later served in the area of operations. He said that, for safety reasons, refuelling vessels were not permitted in the area of operations.
10. Mr Lewis, in submitting that the service of those aboard supply vessels was not dissimilar to the service of those who served at Ubon, referred to *The Inquiry into Unresolved Recognition Issues for Royal Australian Airforce Personnel who served at Ubon between 1965 and 1968* which led to a change in the Regulations to specifically include service at Ubon, for the purposes of the VLSM. The Inquiry Report specifically referred to the matter of a possible flow on of claims from the award of the VLSM to Ubon recipients as follows:

*(this) ... recommendation is based on the **immediate support** provided by Ubon personnel to the USAF at the Ubon base, the level of preparedness that this support demanded and the nature of **the threat to the base**. (Tribunal's emphasis)*

11. The Tribunal accepts that HMAS Melbourne and HMAS Supply had important roles associated with the Vietnam War, as did all RAN vessels during that period. However, it did not accept that the support provided by those ships to Australia or its allies was immediate, nor that was there a threat to those ships in providing that support. The role was significantly different to the role of personnel in Ubon. Consequently, the Tribunal did not consider there were grounds for making a recommendation for extending the criteria for the Vietnam Logistic Support Medal to meet Mr Lewis' circumstances.

DECISION

12. The Tribunal decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that William Charles Lewis is not eligible for the award of the Vietnam Logistic Support Medal.