



Australian Government

Defence Honours and Awards Appeals Tribunal

Tidd and the Department of Defence [2018] DHAAT 26 (1 November 2018)

File Number(s) 2018/031

Re **Mr Russell Gregory Tidd**
Applicant

And **Department of Defence**
Respondent

Tribunal Air Vice-Marshal John Quaife AM (Retd) (Presiding Member)
Ms Naida Isenberg

DECISION

On 1 November 2018, the Tribunal decided to affirm the decision of the Department of Defence that Mr Russell Gregory Tidd is not eligible for the award of the Vietnam Logistic and Support Medal.

CATCHWORDS

DEFENCE AWARD – refusal to recommend the award of the Vietnam Logistic and Support Medal – strict criteria – no discretion

LEGISLATION

Commonwealth of Australia Gazette S79, Vietnam Logistic and Support Medal Regulations dated 10 March 1993.

Commonwealth of Australia Gazette S27, Amendments of the Vietnam Logistic and Support Medal Regulations dated 18 January 2013.

REASONS FOR DECISION

Introduction

1. Mr Russell Tidd claimed eligibility for the Vietnam Logistic and Support Medal (VLSM) on the basis that his service at Ubon Air Base in Thailand between 1966 and 1967 pre-dated his qualifying service for the Vietnam Medal in 1967 – 1968. He proposed that he should have been awarded the VLSM for his Ubon service, and then been awarded the Vietnam Medal for his subsequent deployment to Vietnam.
2. The details of Mr Tidd's service history and his deployments to Thailand and Vietnam are not disputed. The key issue for the Tribunal to consider is whether Mr Tidd meets the eligibility criteria for the VLSM.
3. Unfortunately, Mr Tidd passed away before the matter came to hearing. The application for review was continued at the request of his widow, as his legal personal representative.

Does Mr Tidd qualify for the VLSM under the provisions of the VLSM Regulations?

4. The eligibility criteria for the VLSM are set out in the *Commonwealth of Australia Gazette S79, Vietnam Logistic and Support Medal Regulations*, dated 10 March 1993 (Attachment A), and in an amendment to those Regulations issued under the *Commonwealth of Australia Gazette S27* dated 18 January 2013 (Attachment B). The Regulations are quite specific in excluding from eligibility a person who has been awarded the Vietnam Medal.

Could Mr Tidd have been awarded the VLSM prior to becoming eligible for the Vietnam Medal?

5. In his application, Mr Tidd proposes that he became eligible for the VLSM immediately on completion of his deployment to Ubon in Thailand in May 1967. At that point in time, Mr Tidd had not yet become eligible for the Vietnam Medal and, according to Mr Tidd's argument, he would therefore not have been excluded from the award. However, the VLSM did not exist at that time. Mr Tidd's eligibility for the VLSM cannot be considered in isolation from the fact that he subsequently became eligible for, and was awarded, the Vietnam Medal.

Why are recipients of the Vietnam Medal not eligible for the VLSM?

6. The VLSM was first issued in March 1993. Until that time, a significant number of Australian Service personnel who had contributed to the Vietnam War in logistic and support roles had not received medallic recognition of that service. The VLSM was created to recognize a specific group of persons whose contribution to the Vietnam War had not otherwise been recognized by the Vietnam Medal. Those members eligible for the Vietnam Medal were specifically excluded from the VLSM.

7. In January 2013, the eligibility criteria for the VLISM was amended to include those members of the Royal Australian Air Force who served at Ubon Air Base in Thailand. Once again, this amendment provided recognition for a specific group of persons whose service did not meet the eligibility criteria for the Vietnam Medal, and excluded those persons who were eligible, or had received that award. In other words, the VLISM was provided to recognize a specific group of servicemen and women who had missed out on the Vietnam Medal, but who had nonetheless contributed to the Vietnam War.

Tribunal's Consideration

8. With the amendment to the VLISM regulations in 2013 to include those RAAF members who had served at Ubon Air Base, Mr Tidd's fellow Air Force veterans finally received recognition for their contribution to the Vietnam War. Because of Mr Tidd's subsequent service in Vung Tau, his contribution to the Vietnam War had been recognized by the award of the Vietnam Medal. Being recognized in that manner excludes Mr Tidd from the award of the VLISM. The regulations specifically exclude anyone from receiving both awards; in this regard the Tribunal has no discretion.

9. The Tribunal is of the view that Mr Tidd's personal contribution to the Vietnam War has been correctly recognized by the award of the Vietnam Medal.

DECISION

10. The Tribunal decided to affirm the decision of the Department of Defence that Mr Russell Gregory Tidd is not eligible for the award of the Vietnam Logistic and Support Medal.