

In her reconsideration request, the widow did not provide any additional documentary evidence about her late husband's military status but merely stated that Filipino soldiers received their pay in Philippine pesos rather than U.S. dollars, in contrast with members of the "Army of the United States." She suggested that the Philippine peso was worth less than the dollar, and states that the lower compensation was unfair. She cites 31 U.S.C. § 3702 (a) as the basis for payment.

Discussion

Title 31 of the United States Code, Section 3702 (a) is the statutory provision under which the Secretary of Defense¹ and other officials consider general claims against the United States, however the basis of the claim must arise under other statutory authority authorizing the benefit sought. Nothing in this provision authorizes the benefit that the widow seeks. For the reason cited by the adjudicator, among others, the widow's claim is doubtful. The documentation she submitted fails to demonstrate that her deceased husband was due any additional pay from the United States. The burden is on the widow to prove by clear and convincing evidence on the written record that the United States Department of Defense is liable under the law for a specific amount claimed with all relevant evidence presented when the claim is first submitted.

Conclusion

The claimant's request for reconsideration is denied, and we affirm the September 5, 2007, determination in DOHA Claim No. 07090415, disallowing the claim. In accordance with DoD Instruction ¶ E7.15.2² this is the final administrative action of the Department of Defense in this matter.

Michael D. Hipple

Michael D. Hipple
Chairman, Claims Appeals Board

Jean E. Smallin

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Member, Claims Appeals Board

¹This statute is the basis for DoD Instruction 1340.21, 32 C.F.R. Part 282, which provides the procedures under which the Department of Defense considers claims by uniformed service members for pay and allowances.

²This provision is also codified at 32 C.F.R. Part 282, Appendix E, subparagraph (o)(2).

William S. Fields

William S. Fields
Member, Claims Appeals Board