

KEYWORDS: military member claim

DIGEST: The burden of proving the existence of a valid claim against the United States is on the person asserting the claim.

CASENO: 08051901

DATE: 5/22/2008

DATE: May 22, 2008

In Re:	)	
REDACTED	)	Claims Case No. 08051901
Claimant	)	

**CLAIMS APPEALS BOARD  
RECONSIDERATION DECISION**

**DIGEST**

The burden of proving the existence of a valid claim against the United States is on the person asserting the claim.

**DECISION**

The spouse of a former member (now deceased) of a Philippine resistance organization, requests reconsideration of the April 22, 2008, appeal decision of the Defense Office of Hearings and Appeals (DOHA) in DOHA Claim No. 08041801. In that decision, DOHA's adjudicators concluded that the claimant failed to state and prove a claim on account of her late husband's service in the Philippines from 1942 to 1945, a claim which would be cognizable by the Secretary of Defense under title 31, United States Code, Section 3702 (31 U.S.C. § 3702), or

other statutes, and Department of Defense Instruction (Instruction) 1340.21 (May 12, 2004).<sup>1</sup>

Faxed correspondence dated May 15, 2008, signed by the claimant and an attorney, requests reconsideration of the decision. They described the claimant's claim as one for "any and all legal benefits due to a US Veteran, her late husband." Additionally, they seek an extension of time to file evidence to support their claim measured from 30 days from May 30, 2008.

### **Discussion**

We received the claimant's request for an extension of time within 30 days of the April 22, 2008, appeal decision; however, the record lacks any evidence of good cause shown for an extension of time to develop evidence.<sup>2</sup> See Instruction ¶ E7.13.

On the advice of counsel, the claimant in effect, is now asking us to pay her anything that may possibly be due to her under any law. By itself, this is not a valid claim. The claimant has not stated the amount she is claiming, the reasons why the Department of Defense owes her that amount, and has not included supporting statements and documentary evidence. Instruction ¶ E5.3. It is well-established that claims for anything possibly due to a claimant are "dragnet" claims that are too general and indefinite for adjudication. See the Comptroller General's decision in B-89349 and B-58690, Aug. 2, 1955. The claimant must prove, by clear and convincing evidence, on the written record, that the United States is liable to her for an amount claimed. All relevant evidence to prove the claim should be presented when a claim is first submitted. In the absence of compelling circumstances, evidence that is presented at later stages of the administrative process will not be considered. Instruction ¶ E5.7.

In addition to the claimant's failure to specify an amount, basis and support for any claim, there are other obvious problems in the correspondence claimant submitted: failure to offer proof that the deceased husband was a member of the United States armed forces; failure to offer proof that any possible claim was under the authority of the Secretary of Defense rather than the Secretary of Veterans Affairs or another official; failure to offer proof that claimant is the legal heir or an intended beneficiary of the member; and failure to offer proof of compelling circumstances for her failure to present evidence when she first attempted to present her claim. In the May 15, 2008, request for reconsideration/extension of time, the claimant and her counsel had the opportunity to at least make offers of proof in these areas to support the extension, but they failed to do so. The May 15, 2008, correspondence is nothing more than a promise that if we extend claimant's time to 30 days beyond May 30, 2008, she will develop some evidence to support some kind of a claim against the government. This does not meet the definition of good cause shown.

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<sup>1</sup>DoD Instruction 1340.21 is codified in the Code of Federal Regulations at 32 C.F.R. Part 282.

<sup>2</sup>If good cause had been shown, the Instruction would have limited our authority to extend time to receive the claimant's request for reconsideration to 60 days from the April 22, 2008, appeal decision, not 60 days from her receipt of the appeal decision. See Instruction ¶ E7.13, also codified at 32 C.F.R. Part 282, Appendix E, subparagraph (m).

This decision does not in any way affect any potential claim to benefits administered by the Secretary of Veterans Affairs (VA) or other agencies of the United States government. In this regard, we understand that VA has a regional office in Manila.

### **Conclusion**

The claimant's request for an extension of time to file documentary evidence is denied because the record lacks evidence of good cause. The claimant's request for reconsideration is denied, and we affirm the appeal decision in DOHA Claim No. 08041801 disallowing the claim. In accordance with DoD Instruction 1340.21, ¶ E7.15.2<sup>3</sup> this is the final administrative action of the Department of Defense in this matter.

Signed: Michael D. Hipple

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Michael D. Hipple  
Chairman, Claims Appeals Board

Signed: Jean E. Smallin

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Jean E. Smallin  
Member, Claims Appeals Board

Signed: William S. Fields

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William S. Fields  
Member, Claims Appeals Board

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<sup>3</sup>This provision is codified at 32 C.F.R. Part 282, Appendix E, subparagraph (o)(2).