

DECLASSIFIED

Authority AWD 883078

CLAIMS - DENIED BY GOVT. AGENCIES BASED
ON ACTION BY RFRB

DECLASSIFIED

Authority AWD 883078

FEDERAL SUPPLEMENT VOL. 93 — No. 4 DECEMBER 11, 1950
Reporting the Opinions of the United States District Courts
and United States Court of Claims -

MORENO v. UNITED STATES
Cite as 93 F. Supp.607

MORENO v. UNITED STATES
No. 48754

United States Court of Claims.
Nov. 7, 1950.

Action by Vicente Moreno against the United States for pay which plaintiff claimed accrued to him as an officer in the Philippine Scouts, a part of the Army of the United States, during period of Japanese occupation of the Philippines from October 1, 1942 to January 1, 1945. The United States Court of Claims, Madden, J., held that, under provision of Missing Persons Act, the head of department concerned shall have authority to make all determinations necessary in administration of act and such determinations shall be conclusive. Determination of Commanding General of Philippines-Ryukyus Command, to whom had been delegated authority for final action on status of missing persons in Philippines, that plaintiff was not in a casualty status during period from October 1, 1942 to January 1, 1945 was conclusive and could not be litigated and even if there were an exception allowing suit to be brought if departmental denial of claim was arbitrary and capricious, determination was not arbitrary and capricious.

Petition dismissed.

~~Memorandum~~

For your information and file.

Mr. Imhof:

DECLASSIFIED
Authority NND 883078

ex nihilo nihil fit
(out of nothing, nothing comes)

W. L. S.



UNITED STATES
VETERANS ADMINISTRATION
ESCOLTA AND DAVID STREETS
MANILA, PHILIPPINES

DECLASSIFIED
Authority NOV 883078

July 17, 1958

YOUR FILE REFERENCE:

IN REPLY REFER TO:

Mr. Demetrio P. Diaz
Matlang, Isabel
Leyte

C- 19 474 472
3058-211

Dear Mr. Diaz:

We have your letter of June 20, 1958.

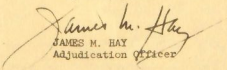
As you have been previously informed, the U. S. Department of the Army has certified that you were in a no casualty status from December 24, 1941 to March 26, 1942. Since you claim to have incurred your gunshot wound while you were in no casualty status, your claim was accordingly disallowed.

The U. S. Department of the Army has the sole authority in determining military service. Their determination is binding upon this office. Therefore, if you believe that that Department has made an erroneous determination in your case, you may take up the matter directly with the office whose address is shown below.

Should we receive a redetermination from the U. S. Department of the Army showing that you were in active service at the time you incurred your injury on December 24, 1941, we will reconsider your claim based on the evidence you have submitted. Meanwhile, your claim continues to remain in a disallowed status.

The duplicate copies of the affidavits of Andres P. Sanchez, Celso Centino and Dr. Jose V. Onate, are returned for your safekeeping.

Very truly yours,


JAMES M. HAY
Adjudication Officer

Encls: a/s



UNITED STATES
VETERANS ADMINISTRATION
ESCOLTA AND DAVID STREETS
MANILA, PHILIPPINES

August 25, 1958

DECLASSIFIED
Authority AND 883078

YOUR FILE REFERENCE:

IN REPLY REFER TO:

C-20 012 135
3058-211

Mr. Teodoro C. Felicita
2015 Int. L. Luna St.
Pasay City

Dear Mr. Felicita:

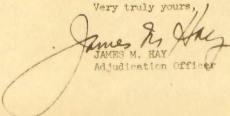
Your letter dated July 25, 1958, with enclosure, addressed to Mr. E. E. Johnston, Chief Dependents and Beneficiaries Claims Service, Veterans Benefits Office, Washington 25, D. C. has been referred to us for reply because your complete claims folder is maintained here.

We regret that our letter of June 17, 1958 was not very clear to you. The Department of the Army who is responsible for furnishing military service information to the Veterans Administration has reported that your recognized guerrilla service extended from Oct. 21, 1943 to Feb. 13, 1945. The Army further reported that the claimed USAPFE service beginning Nov. 24, 1941 has not been established. On the basis of the above-stated period of recognized guerrilla service, it has been determined that your claimed disabilities were not incurred in or aggravated by your military service; but were incurred after your discharge on Feb. 13, 1945. The evidence which you submitted shows that your disabilities were the result of a vehicular accident which took place on Feb. 27, 1945.

Unless we receive a supplemental report from the Department of the Army showing that you were discharged from military service on or after Feb. 27, 1945, we regret that no further action can be taken on your claim.

We are returning our letter to you dated June 17, 1958 for your safe-keeping.

Very truly yours,


JAMES M. HAY
Adjudication Officer

Encl: a/s

DECLASSIFIED

Authority NND 883078

~~Mr. Hoover~~
Mr. [unclear] Inhof

THE HONORABLE ANTHONY
ACCREDITED REPRESENTATIVE
NATIONAL CLAIMS OFFICE
Veterans Affairs Division, DND
Camp Murphy, Tucson City

DECLASSIFIED
Authority AWD 883078

27 April 1957

RE: CAPINTIS, Elpidio
ME - 16 597 372
PD - 14 505

Mrs. Alejandra De los Angeles
Hindang, Layte

Dear Sir :

The U.S. Veterans Administration has disallowed the claim for death benefits filed by Mrs. Felisa Alop Vda de Capintis for the reason that the U.S. Department of the Army has reported that the above-named deceased veteran had no USAFFE status. The claimant has therefore contacted this office for whatever help she may be extended regarding this matter.

Records available in this office show that the veteran and you were members of the same Regiment during World War II, for which reason you are qualified to attest to the veteran's induction and military service. The deceased veteran was assigned to Hq & Hq Sv Co., 92nd Inf Regt., 91st Division.

It is requested that you help the claimant by executing an affidavit or furnishing pertinent records which you may have to establish the veteran's military service. Enclosed is a sample form for your guidance in the preparation of said affidavit.

Your early action on this request will be highly appreciated.

Yours very truly,

I. G. DIMERCE
Accredited Representative

Encl:

MLPD Form # 4

COPY FURNISHED :

Mrs. Felisa Alop Vda de Capintis
Natividad, Pangasinan

DECLASSIFIED
Authority AWD 883078

THE AMERICAN LEGION
ACCREDITED REPRESENTATIVE
SPECIAL CLAIMS OFFICE
Veterans Affairs Division, DND
Camp Murphy, Tucson City

27 April 1957

RE: CAPINTIS, Elpidio
XC - 16 597 372
PD - 14 505

Mrs. Alejandra De Aschellipanda
Hindang, Leyte

Dear Sir:

The U.S. Veterans Administration has disallowed the claim for death benefits filed by Mrs. Felisa Alop Vda de Capintis for the reason that the U.S. Department of the Army has reported that the above-named deceased veteran had no USARV status. The claimant has therefore contacted this office for whatever help she may be extended regarding this matter.

Records available in this office show that the veteran and you were members of the same Regiment during World War II, for which reason you are qualified to attest to the veteran's induction and military service. The deceased veteran was assigned to Hq & Hq Sv Co., 92nd Inf Regt., 91st Division.

It is requested that you help the claimant by executing an affidavit or furnishing pertinent records which you may have to establish the veteran's military service. Enclosed is a sample form for your guidance in the preparation of said affidavit.

Your early action on this request will be highly appreciated.

Yours very truly,

I. G. DIMEROS
Accredited Representative

Encl:

ELPD Form # 4

COPY FURNISHED:

Mrs. Felisa Alop Vda de Capintis
Batidad, Pangasinan

IN REPLY REFER TO:

FDNGS-AP-1 301 Dunlap, Casimiro
RA 6 737 306 (17 Sep 58)

SUBJECT:

Arrears of Pay

DECLASSIFIED
Authority AWD 883078

TO:

Honorable John F. Shalley
House of Representatives
Washington 25, D. C.

FROM:

Commanding General
Finance Center, U. S. Army
Indianapolis 49, Indiana

Reference is made to your recent inquiry to the Chief, Legislative Liaison, Headquarters, Department of the Army, Washington, D. C., referred to this office for reply, concerning arrears of pay in behalf of Casimiro Dunlap.

A review of the retired member's records shows that his claim for back pay under the provisions of Public Law 85-217 was disapproved by The Adjutant General, Department of the Army on 11 April 1958. Settlement of claims of this nature by this office is dependent upon the determination made by that office.

Since The Adjutant General did not determine that the retired serviceman was entitled to such pay, we have no alternative but to deny his claim.

4 Incl

1. Ltr, 3 Sep 58
2. Cy, Affidavit
3. Cy, Affidavit
4. Cy, Affidavit

13 Oct
 M/H - TNs by affar + Franking to (6 73 72) with at
 with info as to Tablers that needed the claim. (H)
 Finance Center
 CC: Chief, Legislative Liaison, Headquarters, Department of the Army, The Pentagon,
 Washington 25, D. C., re referral slip dated 17 Sep 58, file reference
 301 Dunlap, 301 Casimiro (retired) RA 67 37 306

FOR THE COMMANDING GENERAL

DATE

OCT 13 1958

S. S. [unclear], Major, FG, Congressional Liaison Officer

10 Dec 58 O-1250

IN REPLY REFER TO: FINCS-AP-1 301 Dunlap, Casimiro
RA 6 737 304 (17 Sep 56)

DECLASSIFIED
Authority AWD 883078

SUBJECT: Arrears of Pay

TO: Honorable John F. Shelley
House of Representatives
Washington 25, D. C.

FROM: Commanding General
Finance Center, U. S. Army
Indianapolis 49, Indiana

Reference is made to your recent inquiry to the Chief, Legislative Liaison, Headquarters, Department of the Army, Washington, D. C., referred to this office for reply, concerning arrears of pay in behalf of Casimiro Dunlap.

A review of the retired member's records shows that his claim for back pay under the provisions of Public Law 85-217 was disapproved by The Adjutant General, Department of the Army on 14 April 1956. Settlement of claims of this nature by this office is dependent upon the determination made by that office.

Since The Adjutant General did not determine that the retired serviceman was entitled to such pay, we have no alternative but to deny his claim.

- 4 Incl
1. Ltr, 3 Sep 56
 2. Cy, Affidavit
 3. Cy, Affidavit
 4. Cy, Affidavit

13 Oct *with info as to [unclear] that handled the claim.*

13 Oct - TAs [unclear] & [unclear] (67377) with [unclear]

CC: Chief, Legislative Liaison, Headquarters, Department of the Army, The Pentagon, Washington 25, D. C., re Referral Slip dated 17 Sep 56, file reference 301 Dunlap, 301 Casimiro (retired) RA 97 37 304

FOR THE COMMANDING GENERAL

DATE
OCT 1956

DECLASSIFIED
Authority E.O. 13526

CLAIMS - DENIED BY GOV. AGENCIES BASED
ON ACTION BY RFD

DECLASSIFIED

Authority AWD 883078