



Australian Government

Defence Honours and Awards Appeals Tribunal

White and the Department of Defence [2019] DHAAT 01 (24 January 2019)

File Number(s) 2018/008

Re **Dr Michael William Duckett White, OAM, QC**
Brigadier Rodney Curtis, AM, MC (Retd)
Brigadier Ray Burnard, AM (Retd) on behalf of
Captain John Ernest Duckett White
Applicants

And **Department of Defence**
Respondent

Tribunal Mr Mark Sullivan, AO (Presiding Member)
Air Vice-Marshal John Quaiife, AM (retd)
Mr David Ashley, AM

DECISION

On 24 January 2019, the Tribunal decided to recommend to the Minister that the decision dated 29 November 2017, by Lieutenant General Angus Campbell, AO, DSC, Chief of Army, that no further action be taken in the review of the award to Captain John Ernest Duckett White be set aside, and the Minister recommend to the Governor-General that Captain White be awarded the Distinguished Service Cross for his command and leadership in action during his service with the Australian Army Training Team Vietnam while serving with the United States 5th Special Forces Group as a Company Commander of the 11th Company Mike (Mobile) Force at Ngok Tavak, Vietnam on 10 May 1968.

CATCHWORDS

DEFENCE HONOUR – Mentioned in Despatches – Military Cross – Star of Gallantry – Distinguished Service Cross – command and leadership in action – Ngok Tavak – downgraded recommendation – whether applicant's service has been appropriately recognised.

LEGISLATION

Defence Act 1903 – Part VIIC – Sections 110T, 110VB(2)

Defence Amendment Regulations (no 1) 2010 – Schedule 3 Part 2

Commonwealth of Australia Gazette S25, Letters Patent and Regulations for the Australian Gallantry Decorations – dated 4 February 1991.

Commonwealth of Australia Gazette S25, Letters Patent and Regulations for the Distinguished Service Decorations – dated 4 February 1991.

Commonwealth of Australia Gazette S420, Dated 6 November 1996, Amendments to Regulations created by the Letters Patent.

REASONS FOR DECISION

Introduction

1. On 26 May 2011, Dr Michael White OAM, QC made a submission to the Defence Honours and Awards Appeals Tribunal's *Inquiry into Unresolved Recognition for Past Acts of Naval and Military Gallantry and Valour*, (the Valour Inquiry) related to the service of his younger brother Captain John White in the Vietnam War. The substance of Dr White's submission being that Captain White's nomination for the Military Cross had been inappropriately downgraded to the Mention in Despatches (MID) that Captain White was subsequently awarded.

2. Both Brigadiers Ray Burnard, AM (Retd) and Rodney Curtis, AM, MC (Retd) also made submissions to the Valour Inquiry seeking recognition for Captain White.

3. Following the Valour Inquiry a number of submissions, including those for Captain White were referred to the Chief of Army for consideration. On 29 November 2017, Lieutenant General Angus Campbell, AO, DSC, Chief of Army advised Dr White that '*... in the absence of a failure in due process, or new authoritative and compelling evidence, Army recommended to the Minister for Defence Personnel that no further action be taken to seek a review of the award to Captain White.*'

4. The Chief of Army has described his assessment methodology used in making his decision. Army adopted and applied guidelines developed by the Tribunal for the examination of retrospective honours under the Valour Inquiry. These guidelines suggest that original decisions should remain unchanged unless there is evidence of maladministration or new evidence has emerged which was not available to original decision makers.

5. Brigadier Burnard lodged an application with the Tribunal for the review of the Chief of Army's decision on 22 December 2017. Brigadier Curtis lodged his application for a review of the same decision on 10 January 2018 and on 2 February 2018, Dr White also lodged an application in the Tribunal for review of the Chief of Army's decision.

6. In accordance with its Procedural Rules, on 15 February 2018, the Tribunal advised the Secretary of the Department of Defence of the applications made on behalf of Captain White and invited the Secretary to make submissions and provide the Tribunal with any material on which the Department of Defence sought to rely.

7. On 7 April 2018, Defence provided its submission, which was signed by Brigadier Leigh Wilton AM, Director General Personnel – Army. The submission noted that as '*... no new evidence (had been) included in the application*' Army's decision was to not conduct a review but refer the matter to an internal '*Defence Historical Honours and Review Board*' for '*... the review of the circumstances of Captain White's actions and his eligibility for retrospective recognition*'. Brigadier Wilton included a copy of a research paper raised in 2016 to support the decision under review which concluded '*that there was no failure in due process, evidence of maladministration or presentation of new evidence in relation to the*

recommendation for Captain White that would warrant further investigation or a merit assessment.

8. Dr White has provided the Tribunal with his response to the Defence submission. Supplementary submissions to the Tribunal were provided by Dr White, Brigadier Burnard and Brigadier Curtis.

9. On 4 July 2018, Air Vice-Marshal Greg Evans, the chair of the internal Defence review board wrote to Dr White noting that ‘...*Captain White had been awarded a Mention in Despatches. It (the Defence board) concluded that there were no compelling reasons to alter decisions taken at the time. The Board agreed that a higher tier of medallic recognition while considered was not supported.*’ Dr White provided the Tribunal with a copy of this correspondence.

10. On 4 December 2018, the Tribunal conducted a hearing in Canberra. Dr White, Brigadier Curtis and Brigadier Burnard attended and provided evidence for the Tribunal’s consideration. The Tribunal also heard evidence from retired United States Army Sergeant Mr Jack Matheney, retired United States Marine Corps helicopter pilot Major Morris E. Flater, retired United States Army Major General Patrick Brady and Mr Jack Deleshaw, United States Army retired. Ex-United States Marine Corps Private Greg Rose attended the hearing and provided evidence. Air Vice-Marshal Greg Evans attended the hearing and provided evidence on behalf of Defence. Air Vice-Marshal Evans was assisted by Lieutenant Colonel Michael Cook of Army Headquarters, Army’s principal research officer, Major Phil Rutherford and Ms Alexandra Stewart of the Defence Directorate of Honours and Awards.

The Tribunal’s Jurisdiction

11. Pursuant to ss 110VB(1) of the *Defence Act 1903* (the Defence Act) the Tribunal has jurisdiction to review a reviewable decision relating to a Defence honour if an application is properly made to the Tribunal. The term *reviewable decision* is defined in s110V(1) and includes a decision made by a person within the Department of Defence or the Defence Force to refuse to recommend a person for a Defence honour in response to an application.

12. Regulation 93B of *Defence Force Regulations 1952* defines a Defence honour as those honours set out in Part 1 of Schedule 3. Included in the Defence honours set out in Part 1 is the Military Cross. The Tribunal considered that the Chief of Army’s decision to take no further action with respect to Captain White’s nomination constitutes a reviewable decision. Therefore, the Tribunal has jurisdiction to review this matter.

13. The role of the Tribunal is to determine the correct and preferable decision in relation to the application having regard to the applicable law and the relevant facts. In accordance with s110VB(1) of the Defence Act, as the matter under review is a defence honour, the Tribunal does not have the power to affirm or set aside the decision but may make recommendations regarding the decision to the Minister.

14. Under section 110VB of the Defence Act, the Tribunal must conduct a merits review of a reviewable decision where an application for review has been properly

made. Notwithstanding the guidelines developed by the Tribunal for the purposes of considering retrospective honours during the conduct of the Valour Inquiry, in reviewing the merits of this application the fundamental question for the Tribunal to consider was whether Captain's White's actions have been appropriately recognised.

What was the nature of Captain White's service?

15. John White graduated from the Royal Military College, Duntroon, in December 1963. He was allotted to the Royal Australian Infantry Corps and as a Lieutenant was posted to the 2nd Battalion of the Royal Australian Regiment (2 RAR). After a subsequent posting as an instructor at the Officer Cadet School at Portsea and a number of short training courses, Captain John White arrived in Saigon on posting to the Australian Army Training Team Vietnam (AATTV).

16. Despite his modest experience, junior rank and lack of Company Commander training, in late February 1968, Captain White was assigned to command the 11th Company Mike (Mobile) Force of the United States 5th Special Forces Group. The 11th Company Mike Force was a multi-purpose (primarily reconnaissance) unit comprised of 122 ethnic Nung soldiers (South Vietnamese mercenary soldiers of Chinese extraction). The unit also included two experienced Australian Warrant Officers and three United States Special Forces NCOs.

17. In March 1968 after just a few weeks training his company, Captain White was tasked to deploy to a US Special Forces Forward Operating Base (FOB) at Kham Duc near to the Laotian border. From this FOB his company was to reconnoitre south to make contact with, and monitor the movements of, an enemy force believed to be elements of the 2nd North Vietnamese Army (NVA) Division.

18. Captain White's Company patrolled on foot from Kham Duc towards an old disused French fortified position constructed on a hill known as Ngok Tavak about seven kilometers south of Kham Duc. Captain White used this position as a temporary base from which he sent out reconnaissance patrols.

The Action¹

19. After five weeks of patrolling, first contact was made with the NVA force by elements of Captain White's company. It soon became apparent to Captain White that the NVA must at some stage become aware that his company occupied Ngok Tavak. As his company was neither trained nor equipped to defend or hold ground, Captain White informed his United States Special Forces headquarters in Danang of his intention to vacate Ngok Tavak. He was directed to maintain the position. Without reference to Captain White, a United States Marine Corps artillery unit was inserted into Ngok Tavak with two 105mm howitzers, ammunition and 43 Marines. This insertion effectively anchored the company to Ngok Tavak and forced Captain White to adopt a defensive posture.

¹ Bruce Davies, *The Battle at Ngok Tavak – a bloody defeat in South Vietnam 1968*, Allen & Unwin 2008, provides a detailed description of the events of the battle, which is summarised below.

20. During May, contact between Captain White's patrols and elements of the 2nd NVA Division increased. Early on 10 May 1968, Captain White's company at Ngok Tavak came under sustained attack. The defensive perimeter of Ngok Tavak was breached, two platoons became isolated from the company command bunker and elements of the company turned on their allies. As the enemy made repeated attacks on the command bunker area, Captain White organized a successful counter attack of the enemy outside the perimeter of the base, re-organized his defences, controlled the clearing of pockets of enemy still inside the perimeter, and arranged for the helicopter evacuation of wounded. Captain White coordinated close air support throughout the assault including calling for strikes on his own position.

21. At 0730, three helicopters loaded with Mobile Strike Force irregular soldiers attempted to reinforce the company at Ngok Tavak. Two of these helicopters were destroyed on the landing pad blocking any further use of the landing zone. The soldiers of the 12th Mike (Mobile) Strike Force Company that arrived on those helicopters were placed under command of Captain White who was now in command of all of the allied forces at Ngok Tavak.

22. At 0900 Captain White informed United States Special Forces Headquarters in Danang that his situation was untenable and that his now-depleted force could not withstand another sustained assault. At 1045 he sought permission to withdraw but was directed to remain on the position as reinforcements were being arranged.

23. The enemy continued to mortar the base and inflict numerous casualties. With the blocked landing pad suggesting there was no prospect of reinforcement and with his Company's ammunition approaching a dangerously low level, at 1300 on 10 May 1968, Captain White ordered withdrawal from the Base.

24. Rather than leaving Ngok Tavak in the direction of the FOB at Kham Duc, Captain White wisely directed his company to move away from Ngok Tavak in a south-westerly direction. Captain White directed a napalm strike by supporting aircraft to clear the withdrawal path and his company managed to achieve a clean break with the enemy. After establishing his company well clear of Ngok Tavak and having his company clear a small landing zone at a hilltop location by hand, Captain White coordinated the extraction of the surviving members of his company by a series of helicopter flights.

25. As the final helicopter left the improvised landing zone it appeared as if Captain White and a number of his men would be left behind. Noting Captain White's predicament, the pilot of the second to last helicopter dropped his load of survivors at Kham Duc and returned for the remaining men. Although grossly overloaded, this helicopter managed to extract the final members of the Company by all on board jettisoning equipment and the pilots executing a very marginal take off. At his own insistence, Captain White was the last survivor to board the final, overloaded, helicopter.

What was Captain White recommended for and what did he receive?

26. After the action, Brigadier Ray Burnard, who was then a Lieutenant Colonel and the Commanding Officer of the AATTV, wrote a citation for Captain White to be awarded the Military Cross. At the hearing, Brigadier Burnard told the Tribunal that he had based his citation on interviews that he conducted with Captain White, Warrant Officers Cameron and Lucas, the two Australian Warrant Officers who served with White's Company, and Major Angus Husar, Captain White's superior officer and overall commander of the 'Mike' force within the United States Special Forces Headquarters in Danang. Brigadier Burnard also referred to White's after-action report. The citation, included at **Attachment A**, refers to Captain White's conduct, bravery, professional skill, calmness under fire and outstanding leadership.

27. Brigadier Burnard told the Tribunal that he was quite confident that Captain White's actions would be recognised by the award of a Military Cross. When awards were subsequently announced, the Australian Warrant Officers who led the counter attack were awarded the Distinguished Conduct Medal and Military Medal respectively and Captain White was Mentioned in Despatches. Brigadier Burnard described the members of the AATTV being '*shocked and amazed at one of their officers being so poorly treated*' in that Captain White did not receive higher recognition.

28. Major General A.L. MacDonald was the Commander of Australian Forces in Vietnam in 1968. Brigadier Burnard had no consultation with Major General MacDonald regarding the award citations he had drafted, however, Major General MacDonald downgraded Brigadier Burnard's recommendation for Captain White to an MID. Brigadier Burnard told the Tribunal that after the awards were announced, he had confronted Major General MacDonald regarding the downgrading of Captain White's citation and was told by the General that '*he didn't want two brothers to be awarded a Military Cross in the same honours list*'.² The General also told Brigadier Burnard that the decision was his and that there would be no further discussion of the matter.

29. The US Marine Corps artillery battery inserted into Ngok Tavak was awarded a (US) Meritorious Unit Citation and US Marine Corps Corporals Richard Conklin and Henry Schunck were each awarded the (US) Navy Cross.

30. The action at Ngok Tavak left 121 killed, wounded or missing in action, out of a total Allied force of 232.

Witness Statements to the Tribunal Hearing

31. The three applicants each provided a summary of their submissions to the Tribunal. Given the Defence position outlined in Brigadier Wilton's submission to the Tribunal and Air Vice-Marshal Evans' summary of the internal Defence Historical Honours and Review Board findings, the applicants tailored their comments to

² Along with the MID awarded to Captain John White, published in the Commonwealth of Australia Gazette of 29 August 1968, his brother, Major Peter White was awarded the Military Cross.

illustrate their conviction that maladministration had occurred and highlighted what they regarded as new evidence for Tribunal consideration.

Dr Michael White

32. Each applicant provided the Tribunal with a summary of key points from their individual submissions. In particular, Dr White outlined how Captain White's actions meet the criteria for the award of the Star of Gallantry or the Distinguished Service Cross. Dr White expanded on his written submission by emphasizing that Captain White's command in hostile territory was over an extended period of many weeks; the period of the full-scale battle at Ngok Tavak was longer than many battles in Vietnam where awards were made; and that Captain White's personal bravery was significant throughout and demonstrated once again at the very end of the action by his insistence on being the last man to board the last helicopter.

Brigadier Ray Burnard

33. Brigadier Burnard described his raising of the citation for Captain White and his dealings with Major General MacDonald. In addition to the evidence noted previously, Brigadier Burnard gave the Tribunal an appreciation of the context in which his citation for Captain White was raised. He described the first six months of 1968 as being the busiest time for Australian forces during the entire Vietnam War. This period included the Tet Offensive, the Battles of Coral and Balmoral, Ngok Tavak and other actions.

34. Brigadier Burnard noted that the allocation of medals under the quota system during a busy period such as this was unchanged from that of quiet periods. He cited an allocation of just 24 medals being available under the quota system for just over 6000 Australian soldiers serving in the Australian force in Vietnam at that time. Of that allocation he recalls six medals being awarded in this six-month busy period. Brigadier Burnard conceded that Major General MacDonald's statement to him regarding his reasons for downgrading Captain White's nomination may have been to cover a decision taken with regard to the quota system as Brigadier Burnard had no knowledge of that system at that time.

35. Brigadier Burnard expanded on the information included in his original citation by emphasising the irregular and unreliable nature of the mercenary soldiers under Captain White's command; the coherent and strong nature of the enemy force they opposed; Captain White's inexperience and lack of relevant training; his leadership in ensuring primacy for the evacuation of his own casualties and wounded enemy prior to withdrawal; and his *excellent and imaginative* plan for withdrawal.

Brigadier Rodney Curtis

36. Brigadier Curtis was a classmate of Captain White at Duntroon and has remained his friend. His statement to the Tribunal focused on Captain White's command and leadership. Brigadier Curtis described the indigenous Nung soldiers that comprised Captain White's company as being not well trained and mostly without English language skills. He highlighted the very short time that Captain White had to become acquainted with his unit and the fact that he was operating

within an unfamiliar, American, chain of command. In contrast, he stated that a comparable Australian Infantry battalion rifle company would have been provided with 12 months pre-deployment training including one month specialised training at the Army's Jungle Training Centre. He told the Tribunal that most Australian company commanders held the rank of Major, had 10 years' Army experience, and would usually have completed Company Commanders Course.

Mr Cornell 'Jack' Matheney

37. At dawn on 10 May 1968, Mr Matheney was inserted into Ngok Tavak as part of the reinforcing force. As a medic, Mr Matheney was immediately involved in treating wounded soldiers at the command bunker. Mr Matheney told the Tribunal that his location at the command bunker allowed him to witness Captain White's actions and to gain an appreciation of the battle. Mr Matheney described Captain White's personal bravery in assisting with the evacuation of wounded soldiers.

38. Mr Matheney was also quite aware from his own observation that evacuation or reinforcement from the Ngok Tavak helicopter pad was no longer possible due to the disabled aircraft blocking the pad. He described loading a seriously wounded US Marine helicopter crewman into a helicopter that was hovering in a precarious position by the command bunker. Mr Matheney believes that Captain White assisted him in loading the wounded Marine.

39. Mr Matheney was witness to Captain White's radio communication, his calm assignment of duties and his clear directions in directing the defences of the camp, his preparation for, and his execution of, the evacuation. He described Captain White during the battle as being *'back and forth ... all over the hill, checking the perimeter, checking defences, making sure that everybody had ammo, making sure that people were under cover ...'* Mr Matheney confirmed that Captain White left the command bunker on several occasions and that on each time he was exposed to heavy enemy fire.

40. Mr Matheney stated that Captain White *'saved my life'*. He stated that he was convinced *'beyond a shadow of a doubt that I was going to die that day, but he got us out of there and he saved all of our lives'*.

Major Morris E. Flater USMC (ret'd)

41. On 10 May 1968, Major Flater was a junior USMC CH46A helicopter pilot who performed the final extraction flight from the improvised landing zone. Major Flater was assigned as the captain of the third of four aircraft that performed the extraction of Captain White's company following that unit's withdrawal from Ngok Tavak. Other aircraft from Major Flater's unit were the aircraft destroyed on the landing pad at Ngok Tavak earlier that day.

42. Major Flater's interaction with Captain White up to the point of his extraction was through Captain White's radio coordination of the withdrawal. Major Flater told the Tribunal that he performed the second to last extraction flight and, from the radio calls of the pilot of the aircraft which followed him, he realized that Captain White and a number of other survivors were going to be left behind at the improvised

landing zone. Major Flater became aware that Captain White would not depart the landing zone ahead of his men. Rather than proceeding with the other aircraft, Major Flater elected to offload the surviving soldiers on his aircraft at Kham Duc and return to improvised landing zone.

43. Major Flater was able to load the remaining survivors of the battle, and witnessed Captain White directing his men onto the aircraft. Major Flater told the Tribunal that Captain White was the last man to board the aircraft. Although the crew jettisoned unnecessary equipment, Major Flater described a very marginal takeoff in the grossly overloaded aircraft.

44. Major Flater described being '*impressed by the clarity of Captain White's situation reports*' as they approached the improvised landing zone. He was impressed by '*his control, his leadership during what appeared to be a deteriorating situation and his determination not to depart ... until every survivor had boarded our helicopters*'. Major Flater described being '*frightened to death*' during the rescue mission but drawing reassurance and confidence from Captain White's apparent command of the situation. He told the Tribunal that Captain White had directed the approach to the improvised landing zone to minimize risk and of his being '*tremendously reassured by Captain White's demeanour*'. He stated that in spite of his fear that he would not survive, '*when I heard Captain White's voice, I knew I could fly and return and make that second extraction*'.

Major General Patrick Brady (retd)

45. In May 1968, Major General Patrick Brady (retd), United States Army, was the Medevac helicopter pilot who extracted the wounded USMC crewman (amongst others) from near to the command bunker at Ngok Tavak. Major General Brady told the Tribunal that '*there was no question in my mind that his (White's) mission was to save the wounded so that he could save the rest of them ... just to get out of there, to find a way out of there, being surrounded as he was with the number of ... enemy soldiers ... was amazing, truly amazing that he was able to get them out*'.

46. Major General Brady described Captain White assisting with the loading of wounded soldiers and directing the medevac. He described Captain White's demeanour on the radio as generating absolute trust and providing full confidence for what he (Brady) was being asked to do.

47. Major General Brady also told the Tribunal *if he had done this as an American soldier, he would have easily been awarded the Medal of Honor*. Major General Brady is himself a recipient of the Congressional Medal of Honor.

Mr Jack Deleshaw

48. At dawn on 10 May 1968, Mr Jack Deleshaw, then a United States Army radio operator, was inserted into Ngok Tavak alongside Mr Matheney and others. Mr Deleshaw described his arrival at Ngok Tavak as '*we stepped off that chopper and it was hell on earth...*'. Mr Deleshaw's role was to assume duty as radio officer.

49. Mr Deleshaw witnessed the helicopters being hit by enemy fire and blocking the Ngok Tavak helicopter pad. He felt at that point that the situation was helpless and that *'I would not be coming off that hill'*. Mr Deleshaw then described his attendance at a meeting called by Captain White to brief his evacuation plan. He described Captain White as being as *'cool as an iceberg... he's in charge, I mean it was obvious that this man was in charge, like he's in charge of the situation and I don't even work for him and this was one hell of a situation to be in charge of. Well, he laid out a plan... He gave us hope ... he was as calm as he could be ... he had to be as scared as the rest of us but you couldn't tell from the guy's actions or the way he conducted himself. He was a true leader, he epitomized leadership right there ...'*

50. On the withdrawal, Mr Deleshaw said that he was the last man to leave Ngok Tavak. On arrival at the improvised landing zone Mr Deleshaw recalls Captain White continuing to check with his men *'keeping everybody as calm as they could be'*.

51. Mr Deleshaw summarised his recollections as: *'It was just miraculous, the plan he put together, coordinating the airstrikes all day long, coordinating the medevacs coming in there and getting the wounded ... it was amazing ... and every one of us that got out of that camp, we owe it all to John. ... I have served under several different commanders in the Mike force and I've got to say that he was the best, he was the best.'*

Mr Greg Rose

52. Mr Rose was a US Marine private who served with the artillery unit inserted into Ngok Tavak. Mr Rose told the Tribunal of his high regard for the brilliance of Captain White; his bravery in issuing instructions under fire, calling in close air support, consolidating and reorganizing defences, directing clearance of the enemy from the position, clearing about 50 bodies and organising medevacs for over 70 wounded. Mr Rose stated that *'on several occasions John White came and gave us (the USMC artillery unit) specific instructions on exactly what to do'*.

53. In his written statement, Mr Rose describes Captain White ordering and participating in the counter attack that was led by Warrant Officers Cameron and Lucas. This counter attack against enemy inside the fort forced the enemy withdrawal beyond the perimeter. Mr Rose has also described Captain White twice calling for fire on his own position in order to clear an enemy soldier from the command bunker.

54. Mr Rose described Captain White's direction to the American soldiers to gather the enemy wounded from within the Ngok Tavak position and follow him to a position on the perimeter 10 metres away from, and in full view of, enemy soldiers, where the wounded enemy were placed for collection.

55. Mr Rose described how, having made the decision to quit Ngok Tavak, Captain White organized the formation of the withdrawal, allocated tasks for each group of soldiers, and coordinated a napalm strike on the direction of march. The escaping soldiers walked out of Ngok Tavak while the napalm was still burning. Mr Rose told the Tribunal that *'despite being surrounded by a much larger enemy*

force I don't know how the man stayed so calm and showed so much great courage and fortitude to keep us alive and I thank him to this day. He saved my life.'

56. Mr Rose was also on the last helicopter to leave the improvised landing zone. He witnessed Captain White checking on each of his men at the landing zone and his insistence on being the last man to board. He also told the Tribunal that Captain White insisted on being the last man off the helicopter at Kham Duc.

What is the Defence Position?

57. As described by Brigadier Wilton in the Defence submission to the Tribunal, Defence has constrained its consideration to the question of whether General MacDonald's downgrading of Brigadier Burnard's citation suggests maladministration and whether any new or compelling evidence has emerged. At the hearing, Air Vice-Marshal Evans explained that Defence made no consideration of the merits of Captain White's actions and that the internal Defence Board consideration of new or compelling evidence was only made with respect to evidence that goes to the question of maladministration.

58. Air Vice-Marshal Evans told the Tribunal that the applications made on Captain White's behalf reinforced or reiterated the facts known about Captain White's actions that were included in Brigadier Burnard's citation for his award nomination. Air Vice-Marshal Evans stated that the *'application(s) did not provide any new evidence or new facts that were not readily available to the chain of command at the time'*. Having reached this conclusion, Defence focused exclusively on the reasons why Major General MacDonald may have downgraded the nomination and in doing so discounted the General's response to Brigadier Burnard as having insufficient weight to be regarded as evidence of maladministration.

59. Air Vice-Marshal Evans told the Tribunal that the internal Defence Historical Honours and Review Board *'... reached the view that as there is no clear evidence that would corroborate that deliberate maladministration occurred in this case and no basis for further consideration, a separate merit review was not warranted...'* In the material submitted by Defence and in evidence at the hearing, Defence has been quite clear in stating that *'the actions of Captain White during the battle at Ngok Tavak are not in question'*.³ Defence has been equally clear in stating that a merits review of Captain White's actions has not been conducted.

60. Defence agreed that, as the citation points out, Captain White was considered an effective commander and a great leader. Defence also endorsed the observation expressed by the Tribunal that Captain White's command and leadership, clearly enabled by his gallantry, during the action on 10 May 1968 was very remarkable given his rank, experience and the dire circumstances he and his troops were exposed to during this engagement. Defence also noted that as reinforcing elements were inserted, Captain White's level of command escalated during the course of the battle making his command and leadership even more remarkable.

³ Report into Research into Category 2 Public Submissions 34, 157 and 233 – 17093 Captain John Ernest Duckett White, R24755716 dated 24 Oct 2016.

Tribunal's Consideration – what do we think?

61. Major General MacDonald's unfortunate explanation to Brigadier Burnard that the citation for Captain White was downgraded for reasons of appearance has clearly exacerbated the sense of frustration felt by those who believe Captain White's actions merit higher recognition. The Chief of Army's consideration was focused on whether Major General MacDonald's downgrading of the citation and his subsequent explanation to Brigadier Burnard constitutes maladministration. For the Tribunal's legal obligation to examine the merits of Captain White's actions, the Major General's comments and any question of maladministration arising, carry much less weight.

62. Captain White's actions on 10 May 1968 are not in dispute. The Tribunal's legal obligation to examine the merits of Captain White's actions on 10 May 1968 requires full consideration of his actions rather than a limited examination of previous administration. The Tribunal, and Defence, are of the view that Captain White displayed remarkable command and leadership. The Tribunal also formed the view that Captain White demonstrated a high degree of personal courage in executing his duties as Commander. Accordingly, the Tribunal concluded that Captain White's actions are worthy of recognition.

What award is appropriate?

63. In considering Captain White's review, the Tribunal is bound by the relevant eligibility criteria for the claimed higher honour(s) that governed the making of the decision under review - i.e. the Chief of Army's decision dated 29 November 2017. As the Imperial Military Cross as originally recommended by Brigadier Burnard is no longer available, the Tribunal examined the eligibility criteria for both the Australian Gallantry Decorations and the Distinguished Service Decorations.

64. The Star of Gallantry, the Medal for Gallantry and the Commendation for Gallantry were established as Gallantry Decorations by Letters Patent on 15 January 1991 in the Commonwealth of Australia Gazette S25, dated 4 February 1991 for the purpose of:

'according recognition to members of the Defence Force and certain other persons who perform acts of gallantry in action.'

The honours are governed by Regulations set out in the Schedule:

Conditions for award of the decorations

3. *(1) The Star of Gallantry shall be awarded only for acts of great heroism or conspicuous gallantry in action in circumstances of great peril;*
- (2) The Medal for Gallantry shall be awarded only for acts of gallantry in action in hazardous circumstances;*
- (3) The Commendation for Gallantry may be awarded for other acts of gallantry in action which are considered worthy of recognition.*

65. The Distinguished Service Cross, the Distinguished Service Medal and the Commendation for Distinguished Service, were also established by Letters Patent on 15 January 1991, in the above Gazette for the purpose of:

'according recognition to members of the Defence Force and certain other persons for distinguished command and leadership in action or distinguished leadership in action...'

The honours are governed by Regulations set out in the Schedule:

Conditions for award of the decorations

3. (1) *The Distinguished Service Cross shall be awarded only for distinguished command and leadership in action;*
- (2) *The Distinguished Service Medal shall be awarded only for distinguished leadership in action;*
- (3) *The Commendation for Distinguished Service may be awarded for distinguished performance of duties in warlike operations.*

66. While Captain White certainly demonstrated acts of personal courage; the consistent theme in all descriptions of his actions during the battle of Ngok Tavak points to his exceptional command and leadership under fire. The Tribunal has no doubt that his personal courage in exposing himself to enemy fire in order to effectively lead his men is of a high order; it was the impact of his leading by courageous example that was on conspicuous display throughout the battle and saved many lives.

67. In addition to providing inspirational leadership, Captain White proved himself to be an exceptionally effective commander in coordinating the defences of Ngok Tavak; ordering an effective counter attack; coordinating supporting fire; evacuating his wounded; facilitating the recovery of enemy wounded; and, against the directions of his higher headquarters, devising and executing a withdrawal from Ngok Tavak that has been described by his superiors as *'excellent and imaginative'*. Indeed, in his Monthly Report of the Australian Force Vietnam for May 1968, Major General MacDonalld described the withdrawal as being *'brilliantly executed'*.

68. Captain White's calm resolve, wisdom and inspirational leadership have been identified by the survivors as life-saving. Having displayed such distinguished command and leadership, especially as a junior officer lacking in experience and specific command training, the Tribunal has concluded that it is Captain John White's command and leadership in action which should be recognised by a distinguished service decoration.

69. As Captain White's actions went beyond the *'distinguished performance of his duties'*, the Tribunal discounted the Commendation for Distinguished Service. The Tribunal then considered the Distinguished Service Medal which is awarded for *'distinguished leadership in action'*. The Tribunal considered that on the evidence presented and which is not contested by Defence, the command and leadership displayed by Captain White, enabled by his gallantry, was of a standard well above what could be reasonably expected of an officer of Captain White's rank, experience

and training. The Tribunal determined that this was particularly so given the size and complexity of the force he commanded and the extremely challenging command and leadership circumstances he faced and overcame in the most hazardous of situations. For these reasons the Tribunal concluded that Captain White's actions demonstrated distinguished command and leadership in action, and accordingly, should be recognised by the award of the Distinguished Service Cross.

DECISION

70. The Tribunal decided to recommend to the Minister that the decision dated 29 November 2017, by Lieutenant General Angus Campbell, AO, DSC, Chief of Army, that no further action be taken in the review of the award to Captain John Ernest Duckett White be set aside, and the Minister recommend to the Governor-General that Captain White be awarded the Distinguished Service Cross for his command and leadership in action during his service with the Australian Army Training Team Vietnam while serving with the United States 5th Special Forces Group as a Company Commander of the 11th Company Mike (Mobile) Force at Ngok Tavak, Vietnam on 10 May 1968.

RECOMMENDATION FOR HONOURS OR AWARDS

Attachment A
 The name, rank and appointment
 should be shown in the spaces provided.
 or which an award is recommended.
 (Temporary) (Honorary)
 Christian Names (in full) John Ernest
 Duckett
 Surname WHITE
 (Block Letters)
 Decorations Nil
 Corps Royal Australian Infantry
 Unit and Posting Australian Army
 Training Team, Vietnam - Advisor
 Date of Birth 25th November, 1941
 Date of Enlistment 11th December, 1963
 Next of Kin Mrs J.E.D. WHITE
 Relationship Wife
 Home or Private Address 1/156 Ramsgate Avenue
 NORTH BONDI, NEW SOUTH WALES

Number	17093	Recommendation in respect of — * (i) New Year * (ii) Birthday * (iii) Immediate Award * (iv) Periodical (Operational) * (v) Periodical (Non-operational) * Strike out where not applicable.	(For AHQ use only) AHQ File No
Rank	Captain (Substantive)		CAG No
Christian Names (in full)	John Ernest Duckett		LG No
Surname	WHITE (Block Letters)		
Decorations	Nil	Recommended by (R.L. BURNARD) Lieutenant Colonel Commander Australian Army Training Team	Honour or Award
Corps	Royal Australian Infantry		
Unit and Posting	Australian Army	(A. L. MACDONALD) Major General Commander Australian Force VIETNAM	
Training Team, Vietnam - Advisor			
Date of Birth	25th November, 1941		
Date of Enlistment	11th December, 1963		
Next of Kin	Mrs J.E.D. WHITE		
Relationship	Wife		
Home or Private Address	1/156 Ramsgate Avenue NORTH BONDI, NEW SOUTH WALES		

	Date Received	Date Forwarded
Brigade		16 JUN 1968
Division	16 JUN 1968	2 JUL 1968
Corps		
Army		

To be left blank for approval

MID ✓

CITATION (to be completed by the initiating officer)

Place SAIGON, SOUTH VIETNAM Date 30 May, 1968

Captain White joined the Australian Army Training Team in Vietnam in February, 1968, and was appointed a company advisor with the Mobile Strike Force of Company C of the 5th Special Forces Group. On 10th May, 1968, Captain White's company was occupying a forward base at Ngok Travak in Quang Tin Province, when a reinforced North Vietnamese Army battalion attacked the base from three sides. The enemy broke through the perimeter and over-ran part of Captain White's company. Two of his platoons withstood the initial assault but were isolated from the command bunker which had been surrounded by the enemy and at which the survivors from the over-run positions had concentrated. The enemy made repeated attacks on the command bunker area but Captain White called in a number of air strikes on his own position which eventually forced the enemy to cease their assaults. After organizing a successful counter-attack which drove the enemy outside the perimeter, Captain White re-organized his defences, controlled the clearing of small pockets of enemy still inside the perimeter and arranged the helicopter evacuation of the wounded while at the same time directing air strikes onto the enemy.

An attempt was made to reinforce the position by air-landing another company, but after two helicopters were destroyed on the landing zone, the attempt was abandoned. The enemy continued to mortar and rocket the base and inflict numerous casualties. With no prospect of reinforcement and with his ammunition stocks dangerously low, Captain White at 1300 hours ordered the withdrawal from the base. Instead of moving north towards the main Special Forces camp, Captain White wisely led the survivors into the jungle to the south-west thereby avoiding an enemy blocking force which was subsequently discovered to be waiting north of their position. Captain White carefully controlled the withdrawal and the subsequent extraction from a landing zone hacked out in the jungle

INSTRUCTIONS FOR COMPLETION

RECOMMENDATION FOR HONOR

1. AF-W 3121 completed in quadruplicate (typed where possible).
2. When temporary, acting or honorary rank is held, the ranks will be shown as at the date of incident for which an award is recommended.
3. The parent Regiment or Corps of the member is to be shown in the space provided.
4. Where possible, the next of kin and the home address will be shown in the space provided. If the member is a private address of a single person will also be shown.
5. The date the recommendation is received by each formation, and forwarded to the higher formation will be shown in the space provided.
6. The initiating officer will sign in the space provided, showing his name, rank and leaving the next space for use by the officer of the higher formation.
7. The honour or award recommended is to be shown in the space provided. Indicate if it is "Immediate", "Periodical", etc, in space provided at head of form.
8. The citation should not normally be greater than can be contained in the space provided, but if it is longer, it may be continued on the back of this form. Do not use another form.
9. Recommendations for the VC and GC will be supported by signed statements of at least three witnesses of the act for which the award is recommended. Wherever possible these statements should be on oath.
10. This form is not to be used for campaign star or medals.
11. No abbreviations will be used.

Captain White's conduct and bravery throughout the battle were an inspiration to all. The heavy casualties inflicted upon the enemy and the safe and orderly withdrawal of the survivors were due, very largely, to Captain White's professional skill, his calmness under fire and his outstanding leadership.

Recommendation
 * (i) New
 * (ii) Revised
 * (iii) Forwarded
 * (iv) Periodical
 * (v) Proposed
 * State out where

1987

Captain
 (Substantive)

(Honorary)

Names (in full)

Robert John

COBLEY

(Block Letters)

Decorations: Nil

Corps... Australian Staff Corps

Unit and Posting: 4th Field Regiment,
 Royal Australian Artillery -

Forward Observer