



DEPARTMENT OF THE ARMY  
U.S. ARMY HUMAN RESOURCES COMMAND  
200 STOVALL STREET  
ALEXANDRIA VA 22332-0470

December 15, 2009

Casualty and Mortuary Affairs

Mrs. Barbara Birchim  
16180-33 Avendia Venusto  
San Diego, California 92128

Dear Mrs. Birchim:

I have had the opportunity to have your husband's status reviewed based upon the witness statement and DA Form 2371, Index Tracing Record of Aliases and Cosubjects, you provided. As we discussed when you first brought these documents to my attention, these documents do give the impression that your husband was captured and may have been held prisoner.

I provided these documents to the Defense Prisoner of War/Missing Personnel Office (DPMO) for research and analysis to ascertain their importance in determining your husband's fate. The analysis of these documents (enclosed), unfortunately, does not support the probability that your husband was taken prisoner by enemy forces.

In our initial conversation, I discussed with you the potential for a status determination board to review and consider changing your husband's status to include being captured prior to his death. I indicated that if the documents you had provided supported that your husband had been captured, I would refer the matter to the board. As you can see in the DPMO analysis, I do not have the required evidence to refer this status change for consideration.

You may still request a hearing to have your husband's status changed to include being captured prior to his death. However, the burden of proof lies with you and will be based upon any new evidence that you may provide. The witness statement and the DA Form 2371 may constitute new evidence, but the analysis from DPMO significantly undermines their value in supporting your position. Should you decide to request a board, you or your representative must present your position to the board entirely at your expense. Additionally, Federal statute prohibits the Army from paying your transportation and per diem expenses to appear before the board hearing the case.

I regret that my letter does not provide you with more favorable information.

  
Harold W. Campbell  
Chief, Programs  
Casualty and Mortuary Affairs

Encl



DEFENSE PRISONER OF WAR/MISSING PERSONNEL OFFICE  
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WASHINGTON, D.C. 20301-2600

OCT 02 2009

MEMORANDUM FOR CHIEF, PAST CONFLICT REPATRIATIONS BRANCH,  
US ARMY

SUBJECT: Response to Congressman Hunter of California and the U.S. Army Request for an Assessment of CPT Birchim's Loss Incident (Tasker #2009000727)

This memo provides a response to the U.S. Army Casualty Office request for an assessment by DPMO of the Congressional Inquiry regarding Mrs. Barbara Birchim's request to revise the official status of her husband, CPT James D. Birchim, from "Missing in Action" to "Prisoner of War (POW)." Mrs. Birchim provided two documents she alleges are evidence of his captivity; a live sighting report (dated 12 June 1969), and a DA Form 2371. DPMO reviewed these documents and other files related to this case resulting in the following assessment:

- Live Sighting Report, (dated 12 June 1969): Source described a serviceman in Cambodia on 2 April 1969 being carried on a litter by NVA soldiers. The NVA soldiers told the source that the American was a 2LT captured in "Kleng" (possibly Polei Kleng), Kon Tum Province. He also reported the captured American was wounded in the head when he tried to escape. Based on the research and analysis below, DPMO assesses the live-sighting report best correlates to SGT Don A. MacPhail.
- SGT MacPhail was captured 6 February 1969 in Pleiku Province (south of Kon Tum) about two months prior to the reported live-sighting in the general area of Polei Kleng. He reported that while on patrol, he was captured after a concussion grenade hit him in the head. He had also been shot in the leg. Due to his injuries, the enemy carried him on a stretcher. He believes he was heading in a southwesterly direction. During the journey he managed to escape, but was recaptured and beaten. He was taken to Cambodia and moved through four POW camps to the north. The general circumstances of capture, date/year of capture, and his escape, recapture and physical punishment are consistent with the live-sighting report. MacPhail was last seen by his unit about 20-25 kilometers south of Polei Kleng, Kon Tum Province, which is within a reasonable distance to the alleged capture location in the report. Although the American is described as a 2LT, it is not uncommon for Vietnamese witnesses to misidentify U.S. ranks or provide inaccurate physical

descriptions. The fact that SGT MacPhail is a returnee and moved through the POW system also supports this correlation.

- CPT Birchim: We know little of CPT Birchim after his fall from the helicopter. There is no solid information as to where he may have landed or his condition after his fall. The live-sighting report offers elements that do correlate to CPT Birchim's loss based on the province of his loss (Kon Tum), rank (although source states 2LT vice 1LT), and approximate date of the sighting (4.5 months after CPT Birchim went missing). However CPT Birchim's fall from the helicopter would not likely leave him "alert and in fair physical condition" as reported by the source. Also, his unit members described him as having a broken ankle before the helicopter extraction, which would make it difficult for him to "run away" even if he sustained no other injuries from his fall which is unlikely. Based on these inconsistencies and the lack of any additional information on CPT Birchim, it is unlikely that he is the American described in the live-sighting report.
- DA Form 2371: This form has typed near the top "Debriefing of McMurray at Clark AFB," and "Msg filed in Dossier of McMurray." It lists CPT Birchim and 40 additional names. Our records show that the 40 names listed with CPT Birchim were in captivity. This would imply that CPT Birchim may also have been in captivity. In order to investigate this possibility, we searched our holdings for any additional information related to this form, but found nothing. DPMO also sent a researcher to the National Personnel Records Center in St. Louis to examine Mr. McMurray's dossier. It did not contain this form or anything related to it. This form is described as "section 1 thru 7 of 7" implying that there may be attachments. DA Form 2371 found in AR 381-45, is designed for internal service investigations to list witnesses or "co-subjects" related to the investigation. In other words, this form is not being used for its intended purpose. Names are typed under columns "Social Security No." and "Place of Birth." All listed are Army servicemen lost in central and South Vietnam. Finally, it's unknown whether McMurray actually named these individuals during his debrief as possible POWs or if the form was created in advance for use during his debrief. To try to determine the meaning of this information and more importantly, whether CPT Birchim was held in captivity along with the other 40 individuals on the form, we conducted extensive research on numerous POW-related documents outlined below:
  - DPMO examined McMurray's 36-page returnee debrief. In it, he provides details of his capture and movement through four POW camps. He identified by name over 50 POWs, but never mentioned CPT Birchim.

- DPMO examined SGT MacPhail's debrief. He was captured less than three months after CPT Birchim's incident and was moved through four POW camps to Hanoi. This is the likely route CPT Birchim would have taken if captured. SGT MacPhail named 35 Americans he believed were held captive but he did not mention CPT Birchim.
- DPMO reviewed hundreds of pages of Homecoming reports which list the names of Americans identified by all returnees as possible captives. CPT Birchim was not listed in any of these documents.
- DPMO researched their photos database, dog tag reports, and additional live-sighting reports. None correlated to CPT Birchim.

Assessment: The circumstances of CPT Birchim's loss alone provide compelling evidence of his death at the time of the incident. A firsthand witness (U.S. Army Specialist) described a helicopter rescue in which a wounded LT Birchim fell from the McGuire Rig at an altitude of approximately 2,000 feet over rugged terrain. A December 1968 5<sup>th</sup> Special Forces Group Board of Inquiry concluded that "it would have been impossible for LT Birchim to have survived the fall," and recommended his status be changed from Missing Hostile Action to Killed Hostile Action. In January 1969, HQ US Army, Vietnam concurred with the board's recommendation. In addition, DPMO researched all available data looking for any evidence that CPT Birchim was held captive. This extensive research does not explain the true purpose or origination of the DA Form 2371, but it revealed no evidence that CPT Birchim was held captive. The preponderance of evidence listed above, and the circumstances of loss indicate CPT Birchim was not taken captive, but likely died as a result of the fall from the helicopter.



C. GARY SYDOW  
Director, Research & Analysis