



Judicial Watch

Because no one is above the law!

September 8, 2004

By Fax & FedEx

Hon. Gordon R. England
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VADM Albert T. Church III, USN
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Navy Department Board of Decorations
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2000 Navy Pentagon
Washington, DC 20350-2000

**Re: Supplemental Filing to August 18, 2004 Request for Investigation of Awards
Granted to Lieutenant (junior grade) John Forbes Kerry, USNR.**

References:

- a. Paragraphs 113, 114, 116, 117, 222.2 and 222.4 of Secretary of the Navy ("SECNAV") Instruction 1650.1G ("Navy and Marine Corps Awards Manual")
- b. 10 U.S.C. § 6249 ("Limitation of Honorable Service.")
- c. 10 U.S.C. § 5020 ("Naval Inspector General: Detail; Duties.")
- d. Paragraphs 8b(5), 8b(6), 8b(9), and 8b(12), SECNAV Instruction 5430.57F ("Mission and Functions of the Naval Inspector General")
- e. Paragraphs 6a(1) *et seq.*, SECNAV Instruction 5430.92A ("Assignment of Responsibilities to Counteract Fraud, Waste and Related Improprieties Within the Department of the Navy")

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- f. Department of Defense Inspector General letter of September 1, 2004 to Mr. Thomas Fitton, President, Judicial Watch, Re: Formal Complaint and Request for Investigation.

Gentlemen:

This letter supplements Judicial Watch's August 18, 2004, letter Re: "Request for Investigation, Determination and Final Disposition of Awards Granted to Lieutenant (junior grade) John Forbes Kerry, USNR."

Recent press reports have documented how Senator Kerry's DD Form 214 lists a "Silver Star with Combat 'V.'" Senator Kerry posted his DD Form 214 (and other selected service related documents) on the Internet at JohnKerry.com. As you are aware, the "Combat 'V'" device is never awarded with the nation's third highest award for heroism.

Journalist Thomas Lipscomb, writing in the *Chicago Sun-Times* quoted a Navy spokesperson stating: "The Navy has never issued a 'Combat V' to anyone for a Silver Star." Additionally, former Navy Secretary John Lehman was quoted in the *Sun-Times* article with respect to the Silver Star citation as saying: "It is a total mystery to me. I never saw it. I never signed it. I never approved it. And the additional language it contains was not written by me."

Section 113.3 of SECNAVINST 1650.1G directs that only the Secretary of the Navy can, in the name of the President, award the Silver Star. Orders and citations posted on Senator Kerry's Internet site reflect citations for the Silver Star being "awarded" to Senator Kerry under the authority of both Vice Admiral Zumwalt (Commander, U.S. Naval Forces, Vietnam) and Admiral Hyland (Commander-in-Chief, U.S. Pacific Fleet).

It appears these officers lacked the lawful authority to grant the award of the Silver Star. That may, in some part, explain the third citation for the same award of the Silver Star involving the apparent use of an autopen during former Secretary Lehman's tenure as SECNAV. Perhaps the "Lehman Citation" was generated in an attempt to provide *ex post facto* "legal" ratification for an unauthorized award. In any case, Secretary Lehman's categorical denial of approval of the citation for the republic's third highest award for heroism raises serious questions of integrity and abuse of authority within the Office of the SECNAV that merit your attention.

Additionally, the pertinent regulations require that the Silver Star be awarded within 5 years of the date of the combat action. SECNAVINST 1650.1G contains time limits for the submission of recommendations. In the case of the Silver Star, the Instruction states: "3 years from the date of the action. Award must be made within 5 years of date of action (5)." (See Appendix A, Page 2-34 to SECNAVINST 1650.1G.)

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Pursuant to this Directive, even assuming Secretary Lehman's *ex post facto* autopen ratification of the award of the Silver Star is not a legal nullity, Secretary Lehman's actions occurred more than 5 years from the date of the action and is consequently null and void on these grounds alone.

The various changes in citation language between each version of Senator Kerry's "award," and the questions concerning legitimate approval authority may also make the award a nullity. Should the "Lehman Citation" be found null and void, (particularly given the questions concerning approval authority and the three versions of the citation language) then Senator Kerry may run afoul of 18 U.S.C. § 704 which prohibits the "unauthorized wear of any decoration. . ." and carries criminal sanctions.

Furthermore, Senator Kerry's records also reflect the award of a Vietnam Service Medal with 4 bronze stars. Military experts consulted by Judicial Watch believe Kerry's brief tour of duty in Vietnam would have merited no more than 2 bronze stars on a Vietnam Service Medal. Interestingly, Senator Kerry's records contain a DD Form 215, used by Senator Kerry to correct his DD Form 214, in order to add additional campaign stars on his Vietnam Service Medal, but failing to correct the gross error of a "Silver Star with Combat 'V.'"

Senator Kerry's signature on his DD Form 214 certifies that his record of service and "Report of Transfer or Discharge" is accurate and complete. Every person who has served in the U.S. Armed Forces understands and appreciates the importance of the DD Form 214. 18 U.S.C, § 1001 ("False Official Statement") applies to persons who knowingly provide false, misleading or incomplete information for their DD Form 214, and then certify the information on the form with their signature.

Many Swift Boat Veterans have questioned the legitimacy of Senator Kerry's Purple Heart awards. We addressed the Purple Heart matter and Senator Kerry's notorious, dishonorable conduct as a Commissioned Officer in the inactive Naval Reserve during the period January 1970 through July 1972 in our August 18, 2004 letter.

These contradictory and inconsistent records demand your full investigation. Indeed, Senator Kerry's own biographer, the historian Douglas Brinkley, author of Tour of Duty, called for further examination of Senator Kerry's records stating, "Clearly some of these military records should be made available to the press," while appearing on Steve Malzberg's WABC radio show on Saturday, September 5, 2004.

We call upon Secretary of the Navy Gordon R. England to launch a full and complete investigation of the awards granted Lieutenant (jg) John Forbes Kerry, USNR, as well as Kerry's conduct subsequent to the granting of the awards, with respect to the Secretary's obligations under paragraph 116 of SECNAV Instruction 1650.1G.

Judicial Watch is prepared to assist you in your investigation. Please contact me should you have any questions or require additional information.

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Sincerely, _____

JUDICIAL WATCH, INC.

A handwritten signature in black ink, appearing to read 'T. Fitton'.

Thomas Fitton
President

CC: Defense Inspector General John E. Schmitz
Secretary of Defense Donald H. Rumsfeld