

# ***THIRTEEN SOLDIERS WHO FAILED TO RECEIVE MEDALS OF HONOR UNDER THE ARMY'S "KILLED/NO MEDAL" POLICY***

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## **INTRODUCTION**

***(T)he medal of honor cannot be awarded in the case of a deceased soldier, no matter what measure of gallantry he may have displayed.***

***Very respectfully,  
The Adjutant General***

Over a century later, it now sounds almost inconceivable but this early 1900s statement<sup>1</sup> reflected the then Army interpretation of the 1862 Act that authorized the Medal of Honor; this interpretation precluded the issuance of a Medal of Honor to a soldier who did not survive the action which demonstrated his gallantry, or who was otherwise deceased when his Medal of Honor was approved. In his exceptional 2018 book, *The Medal of Honor, The Evolution of America's Highest Decoration*, historian Dwight Mears chronicles this interpretation which was eventually reversed at the direction of the Secretary of War in 1918.

*In 1895 the Army ... formalized a curious interpretation of the Medal of Honor statutes, requiring soldiers to survive their acts of valor to receive the decoration.... In 1895 the Army judge advocate general ruled that the original Medal of Honor Statutes of 1862 and 1863 were "manifestly intended to honor and distinguish the recipient in person." Therefore, absent "special authority of Congress" he determined that a Medal of Honor "could not legally be awarded to the widow, or a member of the family, of a deceased officer, on account of distinguished service in action performed by the latter in his lifetime."*<sup>2</sup>

Further insight into the rationale behind the 1895 ruling, and the basis for the likely application of this policy informally in the decades prior to 1895, is found in an earlier 1891 opinion of then Acting Army Judge Advocate General Guido Lieber who noted in a memorandum as follows:

*The question upon which an opinion is desired is whether the War Department has authority to issue a medal of honor to the relatives for a deceased soldier.*

....

*Without the examination of any law on the subject, I should say that a medal of honor is a thing pre-eminently of a personal character, intended to honor the person upon whom it is conferred, and that when such person dies it becomes impossible from the very nature of things any longer to confer such honor upon him, and that there can be no such thing as conferring the honor on the dead though the living.*

....

*Medals of Honor additional to those authorized by the act (Resolution) of July 12, 1862, and present the same to such officers, non-commissioned officers and privates as have most distinguished or who may hereafter most distinguished themselves in action....*

*The words "Present the same to such officers, etc.," leave no doubt as to what was intended.<sup>3</sup>*

The ability to physically present a Medal of Honor to a living person was therefore the guiding principle underlying the original Army interpretation of the 1862 Act.

This "Killed/No Medal" policy was finally reversed at the direction of the Secretary of War in early 1918, and an ensuing February 15, 1918 directive from the Adjutant General of the Army to the Judge Advocate General reads in part:

*The Secretary of War directs you submit to this office a draft of a bill providing in effect that the Medal of Honor may be awarded posthumously to persons killed in the performance of acts meriting such award, or to persons whose death from any cause may have occurred prior to such award....*

The directive from the Secretary of War to the Adjutant General also stated that the existing general order relating to Medals of Honor be amended to state:

*The medal so awarded shall be issued to the **nearest heir** of the deceased person."*<sup>4</sup>  
(Emphasis added by author.)

While a bill was drafted for the Secretary of War, formal legislation was not required and the Army acted thereafter in accordance with the Secretary of War's direction. Interestingly, in the immediate aftermath of the Army's 1918 reversal of policy, over 20 soldiers were issued the Medal of Honor posthumously for actions during WWI.

Dwight Mears further characterizes the 1895 Judge Advocate General ruling and the 1918 reversal as follows:

*(T)he Army's 1862 law directed that Medals of Honor "be presented, in the name of Congress, to such non-commissioned officers and privates." The judge advocate general evidently construed this clause to preclude the awarding of a medal to anyone other than the service member, given the omission of explicit authorization to present the medal posthumously or to a deceased soldier's next of kin. There was no clear intent to deny the medal to deceased soldiers, either in the law's text or in its legislative history.... This interpretation was never legislatively or judicially overruled, but the Army (in 1918) eventually revoked this rule as a matter of internal policy. Officials likely realized that qualifying actions resulting in death were often more gallant than those in which the soldiers survived, particularly when they sacrificed their own lives for altruistic reasons.<sup>5</sup>*

(This author found no indication that the Navy adopted a similar “Killed/No Medal” interpretation of the separate 1861 Act that authorized Medals of Honor specifically for members of the Navy.)

The identity of every Army soldier whose death from 1862 to 1918 may have disqualified him from a Medal of Honor can likely never be known. There are however multiple examples in Army records of some deceased soldiers whose names surfaced as potential Medal recipients only to have the Army policy invoked, thereby halting any formal recommendation and review process.

However, while there are examples of a number of soldiers who never had their recommendations formally considered because of the Army “Killed/No Medal” policy, there are --- as this article identifies---clear and definitive official documents that prove:

- Eight soldiers were formally approved for Medals of Honor, but the Medals were not issued because they were killed or did not survive the award date.
- Another three soldiers failed to receive Medals of Honor where the written recommendations by their Commanding General (himself a Medal of Honor recipient) were not acted upon because of the Army policy.
- And, remarkably, there are two soldiers who never received their approved Medals of Honor because the Army may have thought they were dead or unaccounted for, but in fact one survived until 1930 and the other to 1963.

This article examines those thirteen cases and poses the obvious question regarding an appropriate remedy.

### **ARMY “POLICY” VERSUS PRACTICE**

While, as noted above, the documentation cited herein makes clear that Medals of Honor were not issued despite approval to specific Army soldiers who were killed, there is also additional documentation which demonstrates an inconsistent application of the “Killed/No Medal” policy during the period 1863 to 1902. As a result, at least 40 deceased soldiers were in fact awarded Medals of Honor during that period even though they died prior to award. See the list at Appendix 1. These awards and issuance of Medals for deceased soldiers, despite the policy to the contrary, may be partially explained by the absence of any written opinion regarding the policy until the 1895 Army judge advocate general opinion. Indeed, the Army’s first formal regulation on the standards for issuance of the Medal did not occur until 1897. Accordingly, it seems plausible that not everyone in the Army during the Civil War (in the immediate aftermath of the enactment of the 1862 statute), or during the succeeding widespread actions of the Indian War period through the 1880s, may have known that there was a Medal of Honor policy regarding killed soldiers, or even subscribed to it if there was any awareness.

Furthermore, relevant to the later discussion in this article of deceased soldiers who failed to receive Medals of Honor that were approved for actions during the Philippine Insurrection, it is noted that there were four soldiers who were killed during that war who not only received Medals of Honor, but whose prior deaths were explicitly recognized in the General Order recording the Medals. See Appendix 1.

These inconsistencies only add to the contention that a remedy is certainly due the thirteen soldiers identified in this article.

## SERGEANT STEPHEN FULLER AND PRIVATE THOMAS COLLINS THE BATTLE OF CHIRICAHUA PASS

On October 16, 1869, under the command of Captain Reuben Bernard, 60 men assigned to “G” Troop, 1<sup>st</sup> Cavalry and “G” Troop 8<sup>th</sup> Cavalry out of Fort Bowie, Arizona began tracking Cochise and a band of 100 Apache warriors who had for months been raiding extensively in the Dragoon and Chiricahua mountains of Arizona. These soldiers included Sergeant Thomas Fuller and Private Thomas Collins. Four days later, on October 20, 1869, deep in the Chiricahua Mountains, after a five-hour intense battle with Cochise and his warriors, Sergeant Fuller and Private Collins lay dead---both shot in the head as they and about 30 other soldiers were directed by Captain Bernard to charge an Apache position up a rocky mesa where the Apaches were able to fire down at the soldiers from a superior position. When the firing stopped and Captain Bernard ordered a retreat, only Sergeant Fuller and Private Collins had been killed, while two other enlisted men had been injured. Private Edwin Elwood had been shot in the cheek and Private Charles Ward had fallen and broken his leg.

At the time of his death, Sergeant Fuller was 35 years old and on his third enlistment after coming to the U.S. from Ireland in 1856. He became a naturalized U.S. citizen in 1866. Like Sergeant Fuller, Private Collins came to this country from Ireland; he was 30 years old when he was killed. Private Collins, having enlisted at Fort Bowie less than 30 days prior to his death, was likely in his first real field engagement with the Apaches on October 20, 1869 when he was killed.

Following Captain Bernard’s orders that the soldiers retreat from the rocky mesa, he perceived a continuing danger from the Apaches in attempting to retrieve the bodies of Sergeant Fuller and Private Collins. The bodies of these two Irish immigrants were therefore left behind on the rocks where they fell, but retrieved three days later and buried near the battle site. (Their likely unmarked graves have only recently been identified.)



Rocky mesa where Sgt Fuller and Pvt Collins were killed



Possible Graves of Sgt Fuller and Pvt Collins

Captain Bernard wrote a detailed after-action report on October 22, 1869 describing the gallantry of the 31 soldiers who had charged the rocky mesa and their assault on the superior position of Cochise and his warriors, and he used that report as the basis for a written Medal of Honor recommendation in December 1869 in which all the listed 31 soldiers, including specifically Sergeant Fuller and Private Collins. In his own handwriting, Captain Bernard's recommendation to Colonel John P. Sherburne, Assistant Adjutant General, reads in pertinent part:

*I have the honor to submit the following names of the Men of the Troops G 1<sup>st</sup> and 8<sup>th</sup> Cavalry for gallantry displayed during the engagement on October 20<sup>th</sup> in the Chiricahua Mountains. These men are they who advanced with me up the steep and rocky mesa under as heavy a fire as I ever saw delivered from the number of men (Indians), say from one hundred to two hundred.*

*These Men advanced under this fire until within thirty steps from the Indians when they came to a ledge of rocks where every man who showed his head was shot at by several Indians at once; here the men remained and did good shooting through the crevices of the rocks until ordered to fall back, which was done by running from rock to rock where they would halt and return the fire of the Indians.*

*When a Government gives an incentive to men for special good conduct, I feel confident in saying that **every one of these men is justifiably entitled to be specially rewarded.***  
(Emphasis added by author.) <sup>6</sup>





*Captain Reuben F. Bernard, 1st Cavalry*  
 Photographed at Walla Walla, Washington, probably in 1878.

Captain Reuben Bernard

Captain Bernard's December 1869 recommendation found its way swiftly through the Army approval process. In a January 31, 1870 document<sup>7</sup> there are handwritten entries evidencing the concurrences from Major General Edward Ord, Commanding General of the Department of California and Adjutant General Edward Townsend. Most importantly, the document contains the handwritten concurrence by the Army's final Medal of Honor authority at the time, General William Sherman, Commanding General of the Army. The document containing these approvals and concurrences refers to the 31 soldiers recommended by Captain Bernard. Remarkably though, as engraving orders for the Medals of Honor were thereafter being prepared for issuance to each of the 31 soldiers on the approved list, someone entered a notation next to the names of Sergeant Fuller and Private Collins---"KILLED NO MEDAL."<sup>8</sup> The remaining 29 soldiers who had survived the Battle of Chiricahua Pass received their Medals of Honor shortly thereafter. The wounded soldiers, Private Elwood and Private Ward, were two of these recipients.

Names	Rank	Regiment	Remarks
7 Private Thomas Collins	P.	1st	Killed <i>no medal</i>
17 Serat Stephen G. Fuller	S.	8 <sup>th</sup> Can.	Killed <i>no medal</i>

Excerpt of approval document where "Killed No Medal" entry made next to names of Sgt Collins and Pvt Fuller

The document evidencing General Sherman's concurrence and the notations next to the names of Sergeant Fuller and Private Collins lay unappreciated in the National Archives until 2019. Thereafter, in November 2020, following a detailed published article<sup>9</sup> on the Battle and the Medal of Honor documentation, this author ---with the substantial aid of two retired Army Major Generals (one of whom is a Medal of Honor recipient) --- provided all of the relevant documents to the Army to seek a correction of the records to indicate that Sergeant Fuller and Private Collins were in fact both approved for the Medal of Honor. Despite the provision of those documents, and in the wake of a series of uninformed initial responses by the Army, there has been no Army action in over two years; Sergeant Fuller and Private Collins remain victims to the Army's seriously flawed interpretation of the 1862 Act and their remains are left behind deep in the Chiricahua Mountains.

This author, with the cooperation of the Cochise County Arizona Historical Society, has recognized Sergeant Fuller and Private Collins on a marker placed in February 2022 near the battle site; their companion soldiers who received Medals of Honor are also listed.





## BATTLE OF CHIRICAHUA PASS

OCTOBER 20, 1869

MEDAL OF HONOR COMMEMORATION

IN THE AUTUMN OF 1869, IN RESPONSE TO INCREASED APACHE RAIDING IN THE CHIRICAHUA MOUNTAINS AND NEARBY TERRITORY, THE U.S. ARMY INCREASED ITS MILITARY EFFORTS TO PUNISH THE PROMINENT CHOKONEN LEADER COCHISE AND HIS WARRIORS. ON OCTOBER 20, 1869, TWO ARMY CAVALRY COMPANIES COMPRISED OF 61 MEN OUT OF CAMP BOWIE, COMMANDED BY CAPT. REUBEN BERNARD AND LT. JOHN LAFFERTY, ENCOUNTERED COCHISE AND AN ESTIMATED 100 WARRIORS ON A ROCKY MESA AT THE CONFLUENCE OF RUCKER AND RED ROCK CANYONS SOUTHWEST OF THIS MARKER. AT THE BATTLE OF CHIRICAHUA PASS, THE ARMY ATTEMPTED UNSUCCESSFULLY TO DISLodge THE APACHES DURING A FIVE-HOUR BATTLE. IN THE COURSE OF THE BATTLE, AN UNKNOWN NUMBER OF APACHES WERE KILLED. RECOGNIZING HIS ADVERSARY'S MILITARY TACTICS, CAPT. BERNARD CALLED COCHISE "ONE OF THE MOST INTELLIGENT HOSTILE INDIANS ON THIS CONTINENT" AND ADDED THAT HIS WARRIORS WERE "RECKLESSLY BRAVE." TWO U.S. SOLDIERS ALSO DIED IN THE FIGHT, SGT. STEPHEN S. FULLER AND PVT. THOMAS COLLINS. THEY ARE BURIED IN UNMARKED GRAVES NEAR THE BATTLE SITE. FOLLOWING THE BATTLE OF CHIRICAHUA PASS, 33 OF THE PARTICIPATING SOLDIERS RECEIVED THE MEDAL OF HONOR. THIS MARKER COMMEMORATES THE BATTLE SITE WHERE MORE MEDAL OF HONOR RECIPIENTS WERE RECOGNIZED IN A SINGLE-DAY ENGAGEMENT THAN ANY OTHER IN U.S. ARMY HISTORY. THE RECIPIENTS ARE:

PVT. JOHN CARR	1ST SGT. FRANCIS OLIVER	PVT. WILLIAM SMITH
CPL. CHARLES H. DICKENS	PVT. EDWARD PENGALLY	PVT. WILLIAM H. SMITH
PVT. JOHN L. DONAHUE	CPL. THOMAS POWERS	PVT. ORIZOBA SPENCE
PVT. EDWIN L. ELWOOD	PVT. JAMES RUSSELL	PVT. GEORGE SPRINGER
PVT. JOHN GEORGIAN	PVT. CHARLES SCHROETER	SADDLER CHRISTIAN STEINER
BLACKSMITH MOSHER A. HARDING	PVT. ROBERT B. SCOTT	PVT. THOMAS SULLIVAN
SGT. FREDERICK JARVIS	WAGONER GRIFFIN SEWARD	PVT. JAMES SUMNER
TRUMPETER BARTHOLOMEW T. KEENAN	SGT. ANDREW J. SMITH	SGT. JOHN THOMPSON
PVT. CHARLES KELLEY	PVT. THEODORE F. SMITH	PVT. JOHN TRACY
CPL. NICHOLAS MEAHER	PVT. THOMAS SMITH	PVT. CHARLES H. WARD
PVT. EDWARD MURPHY	PVT. THOMAS J. SMITH	PVT. ENOCH R. WEISS

MARKER DONATED BY THE COCHISE COUNTY ARIZONA HISTORICAL SOCIETY IN 2021

SGT. FULLER AND PVT. COLLINS WERE INCLUDED ON CAPT. BERNARD'S LIST OF SOLDIERS RECOMMENDED FOR THE MEDAL OF HONOR. REMARKABLY, DESPITE FINAL APPROVAL BY THE COMMANDING GENERAL OF THE ARMY WILLIAM T. SHERMAN, SGT. FULLER AND PVT. COLLINS WERE DENIED THEIR MEDALS. DESPITE THE APPROVAL BY GENERAL SHERMAN, THEIR NAMES WERE THEN STRUCK FROM THE LIST AND THE WORDS "KILLED NO MEDAL" ADDED AFTER BOTH OF THEIR NAMES. IN WHAT IS NOW CONSIDERED AN INCREDULOUS MISINTERPRETATION OF THE 1862 MEDAL OF HONOR STATUTE, THE ARMY HAD THEN CONSIDERED SOLDIERS WHO WERE KILLED IN BATTLE AS INELIGIBLE TO RECEIVE THE MEDAL OF HONOR. THIS POLICY WAS CORRECTED IN 1918. ALTHOUGH THERE ARE NUMEROUS EXAMPLES FROM 1862 TO 1918 WHERE SOLDIERS KILLED IN BATTLE DID RECEIVE THE MEDAL OF HONOR DESPITE THE ARMY POLICY TO THE CONTRARY, THIS MARKER RECOGNIZES THAT SGT. STEPHEN S. FULLER AND PVT. THOMAS COLLINS EARNED THE MEDAL OF HONOR EVEN IF THE ARMY HAS FAILED TO RECOGNIZE GENERAL SHERMAN'S APPROVAL.

Marker commemorating Battle with recognition of Sgt Fuller and Pvt Collins



**PRIVATE JAMES HARRINGTON AND TEN OTHER SOLDIERS**  
**THE BATTLE OF SAN MIGUEL AND THE BATTLE OF SAN ISIDIRO**  
**THE PHILIPPINES ISLANDS 1899**

Yet another Irish soldier, Private James Harrington, was denied the Medal of Honor because he was killed in battle in the Philippines in 1899. However, like the 29 survivors who received Medals of Honor for their gallantry in the 1869 Battle of Chiricahua Pass, 13 of the surviving scouts in Private Harrington's troop in the Philippines in May 1899 also received Medals of Honor. However, Private Harrington and ten other Army soldiers in the Philippines were denied Medals of Honor under circumstances as compelling as those affecting the denials to Sergeant Fuller and Private Collins thirty years prior.

Private Harrington, born in 1853 to Irish immigrants, served as part of a small elite group of scouts known as "Young's Scouts" during the Army's engagement in the "Philippine Insurrection" (also referred to as the Philippine-American War) from 1899 to 1902; this Insurrection followed the United States assumption of control over the Philippines after the defeat of Spain in the Spanish American War. William Young was a civilian volunteer scout in the Philippines who had served previously in the Army in the Nez Perce War.

The formation of "Youngs Scouts" was conceived by General Henry W. Lawton, himself a Civil War Medal of Honor recipient, and who was commanding the Northern campaign in the Philippines in 1899. General Lawton observed Young in action one day as a volunteer soldier and was immediately impressed by his bravery and leadership. Thereafter, Young's Scouts served as an advance guard for especially dangerous assignments in engagements with the Philippine insurrectionists. It was comprised of men specifically hand-picked from the 1<sup>st</sup> North Dakota Volunteers, the 2<sup>nd</sup> Oregon Volunteers and the 4<sup>th</sup> U.S. Cavalry. Private Harrington was one of the soldiers from the 2nd Oregon Volunteers. This elite group of scouts varied in size from 12 to 25 during its existence during 1899.

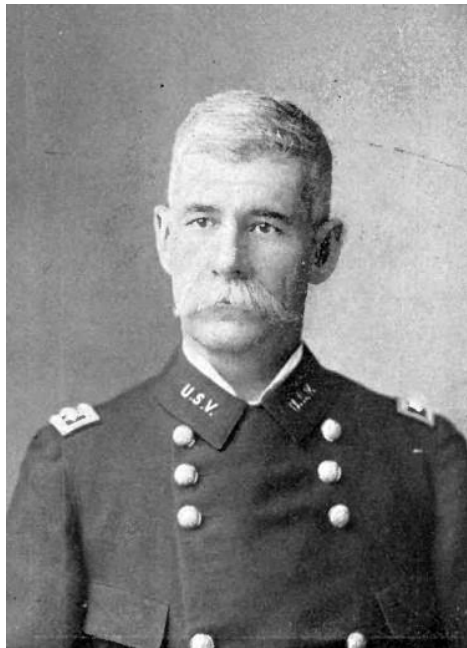
In May 1899, under the command of Captain William Birkheimer (who himself was awarded the Medal of Honor for his action in the Philippines), a number of Young's Scouts were involved in two dangerous and intense assault actions. They were led by Young and Private Harrington. These actions are referred to as the Battle of San Miguel on May 13 and the Battle at Tarbon Bridge near San Isidiro on May 16 (hereinafter the Battle of San Isidiro). In each case, the actions involved strategically important positions and the scouts were significantly outnumbered.

At the Battle of San Miguel on May 13, a reconnaissance party of 11 scouts commanded by Captain Birkheimer was confronted by 200-300 insurgents and lead by Young, who was mortally wounded, and Private Harrington. The insurgents were routed. For their actions, Captain Birkheimer and 11 scouts, including Private Harrington were recommended by General Lawton for Medals of Honor in his report filed on September 26, 1899 and addressed to the Adjutant General of the United States.

In describing the action at San Miguel on May 13, 1899, General Lawton's report to the Adjutant General reads:

*.... brought the support forward promptly in extended order, but before it could come up and engage, 12 scouts on the left of the center, encouraged by two of their number (Chief Scout young and Private Harrington), under the direct supervision of Captain Birkheimer, broke from the bushes which temporarily concealed them and charged straight across the open for the right center of the enemy's line, which wavered, broke, and, carrying with it the flanks, precipately fled before the scouts could reach it.<sup>10</sup>*

Three days later, a slightly larger group of scouts, again including Private Harrington, discovered that some 600 Philippine insurgents had entrenched themselves near the strategically placed Tarbon bridge over the river one mile from San Isidiro and were intent on burning it. The scouts rushed the bridge and prevented the burning, and subsequently drove the insurgents from their trenches with the aid of the Second Oregon Volunteers, thus recapturing control of the bridge. The only soldier killed at the battle at the bridge near San Isidiro on May 16, 1899 was Private Harrington. Ominously, only the day before Private Harrington had remarked to his fellow scouts that the bullet had not yet been made that could kill him. When General Lawton arrived with a troop of mounted cavalry to begin repairs on the bridge, he was told of Private Harrington's death and he directed that an American flag be placed over his body.



Major General Henry W. Lawton



Young's Scouts

In his report to the Adjutant General in September 1899, General Lawton describes Private Harrington's death:

*Harrington, killed, the only casualty, is the man who has several times before been commended for unusual bravery. He was as noble and brave a soldier as I have ever known, and his death.... will be great loss to us.<sup>11</sup>*

In the same September 1899 report to the Adjutant General, at page 92, General Lawton included the list of the following 11 soldiers, as well as Captain Birkheimer, from the Battle of San Miguel in his recommendation for Medals of Honor:

Private Eli L. Watkins, Troop C, Fourth U.S. Cavalry  
Private Simon Harris, Troop G, Fourth U.S. Cavalry  
Private Peter H. Quinn (also McQuinn), Troop L. Fourth U.S. Cavalry  
Corporal Frank L. Anders, Company B, First North Dakota Volunteer Infantry  
Private J. W. McIntyre, Company B, First North Dakota Volunteer Infantry  
Private Gotfried Jensen, Company D, First North Dakota Volunteer Infantry  
Private Willis H. Downs, Company H, First North Dakota Volunteer Infantry  
Private Patrick Hussey, Company K, First North Dakota Volunteer Infantry  
Private Frank W. Summerfield, Company K, First North Dakota Volunteer Infantry  
Private Edward Eugene Lyon, Company K, Second Oregon Volunteer Infantry  
Private James Harrington, Company G, Second Oregon Volunteer Infantry

General Lawton's report to the Adjutant General, at page 96, also recommended the following 22 men for Medals of Honor for the action at the Tarbon bridge near San Isidiro on May 16:

Private Peter H. Quinn (also McQuinn), Troop L. Fourth U.S. Cavalry  
Private Simon Harris, Troop G. Fourth U.S. Cavalry  
Private Edward Eugene Lyon, Company B, Second Oregon Volunteer Infantry  
Private Marcus W. Robertson, Company B, Second Oregon Volunteer Infantry  
Private Frank Charles High, Company G, Second Oregon Volunteer Infantry  
Private M. Glassley, Company A, First North Dakota Volunteer Infantry  
Private Richard M. Longfellow, Company A, First North Dakota Infantry  
Private J.W. McIntyre, Company B. First North Dakota Volunteer Infantry  
Private John B. Kinne, Company B, First North Dakota Volunteer Infantry  
Private Eli L. Watkins, Company C, First North Dakota Volunteer Infantry  
Private Gotfried Jensen, Company D, First North Dakota Volunteer Infantry  
Private Charles P. Davis, Company H, First North Dakota Volunteer Infantry  
Private S.A. Galt, Company G, First North Dakota Volunteer Infantry  
Private W.H. Downs, Company H, First North Dakota Volunteer Infantry  
Private J. Killion, Company H, First North Dakota Volunteer Infantry  
Private Frank Fulton Ross, Company H, First North Dakota Volunteer Infantry  
Private Otto Boehler, Company I, First North Dakota Volunteer Infantry  
Private John F. Desmond, Company I, First North Dakota Volunteer Infantry  
Corporal W.F. Thomas, Company K, First North Dakota Volunteer Infantry  
Private F. W. Summerfield, Company K, First North Dakota Volunteer Infantry  
Private Patrick Hussey, Company K, First North Dakota Volunteer Infantry  
Private T.M Sweeney, Company K, First North Dakota Volunteer Infantry

(Note: Several of the listed soldiers appeared on both of General Lawton's lists. However, of those who did receive their Medals of Honor, none were issued two Medals.)



In total, in addition to Captain Birkheimer, thirteen of the men on the two foregoing lists eventually received Medals of Honor as a result of War Department approvals in 1906. They were:

Private Peter H. Quinn  
Corporal Frank L. Anders  
Private Gottfried Jensen  
Private Willis Downs  
Private Edward Eugene Lyon  
Private Marcus W. Robertson  
Private Frank Charles High  
Private Richard M. Longfellow  
Private John B. Kinne  
Private Charles P. Davis  
Private S.A. Galt  
Private Frank Fulton Ross  
Private Otto Boehler

However, another eleven soldiers on General Lawton's two lists from 1899 never received Medals of Honor. So, what happened to these soldiers? As detailed below, eight of the eleven were specifically listed on two 1906 War Department Medal of Honor approval lists but never received Medals. And the other three soldiers can also be similarly accounted for as non-recipients because of the same "Killed/No Medal" policy then in effect.

**The January 8, 1906 War Department approval list.** This document, signed by the Assistant Secretary of War, contains a list of ten soldiers as approved Medal of Honor recipients for the Battle of San Miguel. Five soldiers received their Medals but five soldiers did not, including Private Eli L. Watkins, Private Simon Harris, Private James W. McIntyre, Private Patrick Hussey and Private Frank Summerfield. These are five of the eight soldiers where no Medal of Honor was issued despite being on the War Department approved list. The January 8, 1906 list includes language that reads in part:

*By direction of the President, let a medal of honor be awarded to each of the following named men, **if living**, for most distinguished gallantry in action at San Miguel, Luzon, Philippines on May 13, 1899. (Emphasis added by author)<sup>12</sup>*

An accompanying War Department document of January 8, 1906, signed by the War Department's Military Secretary, also refers to the approved soldiers, as well as Private James Harrington's circumstance, and reads in pertinent part:

*It is further shown by the records that each of these men was specifically mentioned for distinguished gallantry in the charge of May 13, 1899, and that Captain Birkheimer and Major General Lawton recommended, in terms almost identical with those employed in the case of E.E. Lyon, and set forth hereinbefore, that each of these men (except Harrington, who died shortly thereafter) be awarded the Congressional medal of honor for distinguished gallantry on that occasion.<sup>13</sup>*

**The April 4, 1906 War Department approval list.** In a second War Department document dated April 4, 1906, relating to the Battle of San Isidiro and signed by the Assistant Secretary of War, is a list that includes the names of ten more soldiers approved for the Medal of Honor, but three of these soldiers never had Medals of Honor issued to them. These three soldiers are: Private Michael Glassley, Private John Desmond, and Private William Thomas. In pertinent part, the April 4, 1906 San Isidiro list includes language which reads:

*By direction of the President, let a medal of honor be awarded to each of the following men, **if living**, for distinguished gallantry in action near San Isidiro, Philippine Islands<sup>14</sup>*  
(Emphasis added by author)

### **THE PLIGHT OF ELEVEN PHILIPPINE SOLDIERS**

The historical documents do not fully explain why it took over six years for the War Department to issue the two Medal of Honor approval lists in 1906 for the 1899 battles at San Miguel and San Isidiro. General Lawton was killed in action in December 1899 after publishing his recommended lists for each battle in his official report of September 1899. While his death might have slowed the review process, there is evidence however that an initial board of officers was convened in 1900 and recommended the issuance of Medals of Honor for the 1899 battles. However, the records are not clear as to any immediately ensuing review actions within the Army.

Not until a letter from former Private Edward Lyon in December 1905 did the recommendations for the Medals get further attention by the War Department. Unquestionably, this six-year gap in approval action worked to the detriment of several soldiers who were on the approved 1906 War Department lists but who were either dead by the time of those 1906 approvals or unaccounted for. Consider the summary of facts regarding the following eleven soldiers --- eight of whom served with the First North Dakota Volunteer Infantry (whose names are marked with an asterisk):

1. **Private F.W. Summerfield\*** (who appeared on both of General Lawton's lists) was killed in action in Calabarzon in the Philippines on January 20, 1900. Why the War Department did not know of his death when it approved Private Summerfield's Medal of Honor in 1906 is a curious oversight.

In January 1906, Private Summerfield's parents learned of their son's name on the War Department approved list for the battle of San Miguel. They made a request for their son's Medal of Honor to the War Department through Senator Porter McCumber of North Dakota. Their request was denied in a War Department letter indicating there was no authority to issue a Medal of Honor for a deceased soldier. Private Summerfield is buried in Lisbon, N.D.

The War Department response to the parents of Summerfield's parents is inexplicable when compared to a similar situation only four years prior when Mary Leahy, the mother

of Private Cornelius Leahy, corresponded with the War Department and requested her deceased son's Medal of Honor. Private Leahy, born in Ireland in 1872, was assigned to Company A, 36<sup>th</sup> U.S. Volunteers, and was recognized for gallantry during action on September 3, 1899 near Porac, Luzon, in the Philippines. His Medal of Honor award date was May 3, 1902 but he had been killed in action prior to that on December 1, 1900 in Luzon. On May 9, 1902, Private Leahy's mother received his Medal. Private Leahy is one of the four soldiers from the Philippine Insurrection who was killed but nonetheless received the Medal of Honor. The War Department actions that lead to the award of these four Medals are noteworthy not only because they were exceptions to the then War Department policy, but these awards were processed within a timeframe far less than the six plus years needed to process the belated approvals for the battle participants at San Miguel and San Isidoro.

2. **Private Eli L. Watkins** (who appeared on both of General Lawton's lists) was killed in Philippines on July 20, 1901. He is buried in Clark Veterans Cemetery, Central Luzon, Philippines. Curiously, there is 1906 War Department correspondence to another Medal recipient asking for any information about the whereabouts of Private Watkins. As was the case with Private Summerfield, why the War Department did not know of Private Watkins' death when it included his name on its 1906 approved list is perplexing.
3. **Private John Desmond\*** died in San Francisco on July 31, 1900 after his discharge. In 1906, a War Department letter notifying Private Desmond of his award was sent to an outdated address in Wahpeton, N.D. and returned. He is buried in San Francisco National Cemetery.
4. **Private Michael Glassley\*** died on November 18, 1904 after his discharge, but apparently from some form of illness originally contracted during his military service. In 1906, a War Department letter notifying the then deceased Private Glassley of his award was addressed to him in "Stevensville, Montana." He is buried at Fort Bayard, N.M..
5. **Private Patrick Hussey\***. In 1906, a War Department approval notification letter was sent to Private Hussey in Belt, Montana, which was his residence in 1898. There is no record of receipt or return. It was likely not a current address. Records indicate that Hussey had re-enlisted in the Coastal Artillery in 1901 but deserted in September 1901. These enlistment records, with the desertion entry, should have been available to the War Department when Private Hussey was included on the January 1906 approved list. There is no confirmation of his death, although a "Patrick Hussey" died in Minot North Dakota in 1920.
6. **Private James Harrington**. As noted from the 1906 War Department documentation, all of General Lawton's recommendations for the Medal of Honor from the Battle of San Miguel were approved, except Private Harrington, who was specifically excluded because he had been killed in the May 16, 1899 at the Battle at San Isidoro. As discussed above, Private Harrington was particularly cited by General Lawton for his bravery.



Furthermore, Captain Birkheimer, in a June 3, 1899 after action report on the two battles, stated:

*The voices of Young and Private Harrington are hushed in the stillness of the grave, yet at this moment I can hear them cheerily urging the scouts on the attack. Let their **surviving** comrades, each and all, receive the award appropriate to their deeds of valor. (Emphasis added by author)<sup>15</sup>*

This reference to the “surviving comrades” suggests that Captain Birkheimer may have been aware of the limitation on having a Medal of Honor awarded to a deceased soldier; hence Private Harrington’s name, after General Lawton’s death in December 1899, did not follow in the War Department review and approval with General Lawton’s other recommendations.

Private Harrington is buried in Riverview Cemetery, Portland, Oregon.

7. **Private J. Killion\*** was killed on June 9, 1899 in a military action near Morong, Philippines. He was buried in Manila. It seems likely that the War Department was aware of Private Killion’s death when the approval list was issued in 1906; hence he also never made it from General Lawton’s 1899 recommendation list into the subsequent War Department review and approval process.
8. **Private T.M Sweeney\*** was killed in another subsequent action in the Philippines at San Isidiro on October 24, 1900. Like Private Killion, the War Department was likely aware of his death which is why he too never made it from General Lawton’s recommendation list to the 1906 War Department approved list. He is buried in San Francisco National Cemetery.

(While Harrington, Killion and Sweeney can be distinguished from the first five soldiers on the foregoing list as not having their names on the final 1906 War Department approval lists, there seems no doubt that the failure to issue Medals of Honor to these three soldiers was a result of the “Killed/No Medal” policy.)

9. **Private J. W. McIntyre\***, who was on the January 8, 1906 War Department approval list for the Battle of San Isidiro (and on both of General Lawton’s lists) suffered a particularly egregious form of injustice. The War Department notification letter was sent to him on January 12, 1906 and addressed to him only at “Fargo, North Dakota.” It was returned as undelivered and there is no further record of War Department efforts to locate him. McIntyre lived until May 26, 1930 when he died in Columbus, N.M. His pension record reflects that date of death as well as his service with his unit in the Philippines.<sup>16</sup> His burial location is unknown. How the War Department missed the opportunity to find Private McIntyre seems remarkable.

**10. Corporal William F. Thomas\*** appears to be in the same category as Private McIntyre in that he survived the 1906 War Department award date but did not receive a Medal of Honor. In a letter dated April 6, 1906, the War Department attempted to communicate with Thomas regarding his approved award. That letter was sent to Dickinson, North Dakota (his address of record from 1898) but returned by an acquaintance with a note that Thomas was likely in San Francisco. It appears the letter was then forwarded to San Francisco but there is no confirmation of receipt. (The great San Francisco earthquake occurred on April 18, 1906.) However, in a July 25, 1906 article in the Bismarck, North Dakota Tribune, William F. Thomas was reported to be in Bismarck (most recently of San Francisco where his house burned in the earthquake) and headed to a job at a nearby North Dakota ranch. No death certificate has been located for Thomas.

**11. Private Simon Harris** (who appeared on both of Lawton's lists) died on January 22, 1963. He suffered the same injustice as Private McIntyre as Corporal Thomas, since he also survived his award date. Like McIntyre, he had a military pension record. Harris also had a VA record.<sup>17</sup> He is buried in Memorial Park Cemetery, in Kokomo, Indiana. In January 1906, a War Department approval letter was sent to him care of the "Dept of Police, Manila". Prior correspondence from Private Harris to the Army on April 5, 1902, in which he inquired about the status of his Medal of Honor, stated that he was then working for the Manila Police Department. A response to that letter by the War Department on June 4, 1902 advised Private Harris that he had not received the Medal of Honor. Obviously, this was inconsistent with the January 8, 1906 War Department approval notification.

#### **DELAYED ARMY DECISIONS REGARDING SOLDIERS RECOMMENDED BY GENERAL LAWTON**

The Medal of Honor recommendation for Captain Birkheimer resulted in his award on July 15, 1902 for his action at San Miguel. However, as noted above, not until January 8, 1906 ---after a six-year delay involving consideration and reconsideration of the soldiers on General Lawton's original lists of recommendations --- did the War Department issue the approved list for the Battle of San Miguel. The War Department approved list for the Battle of San Isidoro followed shortly thereafter on April 4, 1906.

The issuance of these approval lists was ultimately triggered by a request from Senator C. W. Fulton on behalf of then former Private Edward Lyon. Lyon had inquired on December 24, 1905 about his Medal of Honor since he was aware of General Lawton's recommendation and Captain Birkheimer's endorsement regarding Medals of Honor for himself and other soldiers serving in Young's Scouts. In contrast to the lack of action between 1899 and Lyon's letter in December 1905, the War Department review of Edward Lyon's inquiry was remarkably swift since the San Miguel approved list, which included Edward Lyon, was issued only 15 days later (and over the holidays at that) on January 8, 1906.

Regardless of the reason for this delay from 1899 to 1906---and it was certainly not the fault of any of the recommended soldiers---this delay had distinct consequences for the soldiers who

were recommended and approved for Medals of Honor but who died prior to 1906. In fact, if it were not for Edward Lyon's inquiry, approval lists might have never been issued by the War Department, and General Lawton's recommendations, except the one for Captain Birkheimer, would have never been addressed.

## CONCLUSION

One can reasonably argue that, when in 1918 the War Department corrected its flawed interpretation of the 1862 Act, it should have examined Medal of Honor records for discriminations like those identified in the records of soldiers like Sergeant Fuller and Private Collins, or at least reviewed the Medal of Honor records of more recent actions such as those found in the 1906 War Department lists for the Philippine Insurrection---particularly since a General Order noted the deaths of four soldiers who did receive Medals of Honor.

Such a review might well have been challenging, but consider the enormity of the important review that the War Department did in fact conduct in 1916----when it reviewed all Medal of Honor awards up to that date, and actually revoked 911 Medals of Honor which were determined not properly issued, primarily since acts of gallantry were not involved. Would not a War Department review to identify those soldiers who unfairly received no Medals of Honor despite approval been just as important---or arguably even more important?

As the late Senator and Medal of Honor recipient Daniel K. Inouye remarked in a speech in 2001:

***There is no statute of limitations on honor. It's never too late to do what is right. A nation that forgets or fails to honor our heroes is a nation destined for oblivion.***

It is not too late for the thirteen soldiers in this article. They must not be forgotten. Medals of Honor need to be issued.

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<sup>1</sup> A document entitled Handling Medal of Honor Cases in the Correspondence and Examining Division, The Adjutant General's Office, compiled by C.E. Berlew, December 16, 1912, Item # 1702191.

<sup>2</sup> Dwight S. Mears, The Medal of Honor: The Evolution of America's Highest Military Decoration (Lawrence: University of Kansas Press, 2008), pp.34-35.

<sup>3</sup> Memorandum, Adjutant General's Office, March 25, 1902. This opinion was in response to a request dated August 1891 from the Adjutant General of Vermont requesting a Medal of Honor for Bvt. Major General George J. Stannard, U.S. Volunteers, during the Civil War. Stannard died on June 1, 1886 and therefore was deceased at the time of the August 1891 request.

<sup>4</sup> War Department Memorandum dated February 15, 1918 for the Adjutant General of the Army: Subject: Posthumous Award of the Medal of Honor.

<sup>5</sup> Mears at p. 35.

<sup>6</sup> Captain Rueben Bernard letter of recommendation to Colonel John S. Sherburne, December 20, 1869, NARA, RG

75. See document at Appendix 2.

<sup>7</sup> See document at Appendix 3.

<sup>8</sup> See document at Appendix 4.



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<sup>9</sup> Michael C. Eberhardt, The Battle of Chiricahua Pass: Medals of Honor Denied October 1869, The Cochise County Historical Journal, Vol. 50, No. 1, Spring-Summer 2020.

<sup>10</sup> Major General H. W. Lawton, U.S. Volunteers Commanding. September 26, 1899 Report of an Expedition in the Provinces of Bulacan, Nueva Ecija, and Pampanga, Luzon, P.I. (San Isidoro or Northern Expedition), p.92.

<sup>11</sup> Ibid., p.95.

<sup>12</sup> War Department Memorandum dated January 6, 1906, signed by Assistant Secretary of War, Robert Shaw Oliver. See document at Appendix 5.

<sup>13</sup> War Department Memorandum dated January 6, 1906 signed by The Military Secretary, Charles J. Bonaparte. See document at Appendix 6.

<sup>14</sup> War Department Memorandum dated April 4, 1906 signed by the Acting Secretary of War. See document at Appendix 7.

<sup>15</sup> War Department Memorandum dated January 4, 1906, Case of E.E. Lyon, application for the award to him of a Medal of Honor, Document No. M.S. 1084888 at page 2 citing the June 3, 1899 letter from Captain Wm. E. Birkheimer, Captain, 3rd Artillery, Acting Judge Advocate.

<sup>16</sup> See documents at Appendix 8.

<sup>17</sup> See documents at Appendix 9.