

PROCEEDINGS IN INVESTIGATION, AND
REPORT UPON ALL THE CIRCUMSTANCES
CONNECTED WITH THE INCURRENCE OF
THE INJURY TO LT. COL. ROY W. KENNY,
ASSISTANT CHIEF OF STAFF, G-4, 45th
DIVISION, CAMP BARKELEY, TEXAS.
(PAR. 1c (b), A.R. 345-415)

HEADQUARTERS FORTY FIFTH DIVISION

CAMP BARKELEY, TEXAS

Proceedings of a board of officers which convened at Station Hospital, 45th Division, Camp Barkeley, Texas, pursuant to the written opinion and request of the surgeon, and paragraphs 2 and 3, Special Orders No. 40, Headquarters Camp Barkeley, Texas, dated May 17, 1941, copies of which are hereto attached as "Exhibits A and B", respectively.

The board met pursuant to the foregoing order at Station Hospital, Camp Barkeley, Texas at 9:00 AM, on May 26, 1941.

All board members present were sworn.

Members present at each meeting:

Lt. Col. Frank J. Duffy, J.A.G.D., 45th Division.
Lt. Col. Pashupati J. Sarma, MC, Station Hospital,
Camp Barkeley, Texas.

Members absent at each meeting:

Lt. Col. Elbert C. Monroe, 158th Infantry.

PURPOSE: To investigate and report upon all the circumstances connected with the incurrence of the injury to Lt. Col. Roy W.

Kenny, Assistant Chief of Staff G-4, 45th Division, Camp Barkeley, Texas (par. 1c(b), AR 345-415).

1. Lt. Col. Roy W. Kenny appeared before the board in person and without counsel.

2. The order appointing the board and the substance of the regulations under which it was convened were read aloud by the recorder. Lt. Col. Roy W. Kenny was asked if he desired to challenge any member of the board for cause and replied that he did not.

3. Lt. Col. Roy W. Kenny was present during all open sessions of the board, was afforded full opportunity to cross examine adverse witnesses, to present evidence in his own behalf, to testify in person, or submit a written statement and to submit a brief.

EVIDENCE:

4. (a) 1st Lt. MURRAY E. GIBBONS, MC, Station Hospital, Camp Barkeley, Texas, was sworn and testified as follows:

QUESTIONS BY COL. DUFFY

Q. State your name, rank, and organization?

A. Murray E. Gibbons, 1st Lt., MC, Station Hospital, Camp Barkeley, Texas.

Q. Did you attend Colonel Kenny when he was first placed in this hospital?

A. I did.

Q. Do you remember the date?

A. Wednesday morning, April 30, 1941.

Q. Have you taken care of him since?

A. Yes, sir.

Q. And you are conversant with his condition?

A. Yes, sir.

Q. Lieutenant, tell us the condition that Colonel Kenny was in when he first came here?

A. He had an acute injury of his right knee, but in good condition otherwise. He had a good amount of swelling in his right knee. X-Rays were made and he had a fracture of the internal tibial condyle extending into the knee joint. This fragment was in good position, very little displacement. A long leg cast was applied at the time and the knee in extension. He had a large hematoma over right knee. Right knee swollen with swelling under skin over upper anterior tibia, very soft, due to hematoma. X-Ray shows intracondyler fracture of upper tibia with little or no displacement of fragments. As to his prognosis there will possibly be stiffness and pain in that joint. There may be some partial disability.

Q. Will you estimate the percentage of disability?

A. That depends somewhat on his occupation. I should say

he would probably be partially disabled in doing any kind of heavy work or walking.

Q. Colonel Kenny, in military life, is Assistant Chief of Staff G-4 of the 45th Division, and in charge of supplies. Is it your opinion that this permanent partial disability will impair his carrying out of those duties?

A. I imagine it will. I am afraid he is going to have traumatic arthritis. This is only my present impression.

Q. What was the injury to his nose?

A. Fracture of the nasal bones with deviation to the right and this was treated by the Nose and Throat Department with very good results. No permanent disability.

Q. No permanent disability in so far as the injury to his nose is concerned?

A. That is right. His nose is on the road to complete recovery.

Q. What was the condition of his right arm at the time?

A. Patient also had a injury of his right elbow which was not severe at the time of injury. X-Ray at the time of injury shows numerous free calcifications in and about the elbow joint. Diagnosis at the time consisted of contusion of right elbow, moderate. No permanent disability expected.

Q. When you first started your examination of Colonel Kenny here in the hospital, what hour was it?

A. Lt. Jones saw him first, and it was about 4:00 AM when I first saw him.

Q. Did you see any indications that he was or had been under the influence of intoxicating liquor?

A. None at all.

(Colonel Kenny did not desire to question witness)

(Witness Excused)

* * *

(b) Private Oscar Sturgell, Company "F", 120th Quartermaster Regiment, Camp Barkeley, Texas, was sworn and testified as follows:

QUESTIONS BY COL. DUFFY

Q. State your name, rank, and organization?

A. Oscar Sturgell, Private, 120th Quartermaster Regiment.

Q. What was your duty on the night of April 29, 1941?

A. To drive Colonel Kenny.

Q. What sort of vehicle were you driving?

A. A one-half ton Command Car.

Q. At the time of the happening of this injury where did you and Colonel Kenny start from?

A. From Division Headquarters.

Q. At what hour?

A. About 9:30 PM.

Q. Where did you go from Division Headquarters?

A. To Railhead.

Q. What is the approximate distance from Division Headquarters to Railhead?

A. I would say 10 or 15 miles.

Q. What time was it when you left Railhead?

A. About 10:30 PM.

Q. And you were headed for where?

A. Back to Division Headquarters.

Q. Tell us the condition of the car as to lights?

A. We were driving without lights.

Q. Why?

A. I had orders to drive without lights during maneuvers.

Q. You were engaged in Division maneuvers?

A. Yes, sir.

Q. And your orders were to drive without lights?

A. Yes, sir.

Q. Tell us how the accident happened?

A. We were coming back from Railhead on Highway 158, going to Division Headquarters and the road was slick and it was cloudy. We were driving without lights so I didn't see the bridge and I was too far to the right and I hit the bridge.

Q. Were you injured in the collision?

A. Only my nose was injured.

Q. What happened to Colonel Kenny?

A. His nose was broken and had a gash in it, and his leg was injured.

Q. Did you go with him to the hospital?

A. Yes, sir.

Q. Do you know who picked you and Colonel Kenny up?

A. No, sir, I do not remember his name.

Q. At the time of the accident where was Colonel Kenny sitting?

A. In the front seat with me.

Q. What was the weather that night?

A. It was real dark and cloudy and misting a little.

Q. Was it chilly or moderate?

A. About moderate, but a little chilly.

Q. And that was why he sat in the front seat with you?

A. Yes, sir.

Q. What was the speed of the vehicle at the time of the accident?

A. I imagine close to 15 miles or 20 miles per hour. The ~~for~~ reason that we were on the right side of the road was because we were meeting supply trucks going to Railhead.

Q. And was it because of darkness and driving without lights that made you drive well on the right side of the road, to avoid hitting the oncoming trucks?

A. Yes, sir.

Q. Did you ascertain whether or not the culvert was narrower than the rest of the road?

A. It was quite a bit narrower than the road.

(Colonel Kenny did not desire to question witness)

(Witness Excused)

* * *

(c) Lt. Col. Roy W. Kenny, Assistant Chief of Staff G-4, 45th Division, Camp Barkeley, Texas, was sworn and testified as follows:

QUESTIONS BY COL. DUFFY

Q. State your name, rank, and organization?

A. Roy W. Kenny, Lt.Col., Assistant Chief of Staff G-4, 45th Division, Camp Barkeley, Texas.

Q. Were you on duty the night of April 29, 1941?

A. Yes, sir.

Q. What were you doing?

A. I was acting in my capacity as G-4 on a problem.

Q. Was that problem by Division Field Order?

A. Yes, sir.

Q. And what were you doing at the time this accident happened?

A. We had just been to Railhead at the munitions dump to inspect them and were returning to Division Headquarters.

Q. You were checking to see if they were functioning in the maneuver properly?

A. Yes, sir.

Q. And you were returning to Division Headquarters for your duties there?

A. Yes, sir.

Q. Was one of the elements of that field order as issued by the Commanding General, 45th Division, an order to travel without lights?

A. Yes, sir, that had been the order for all the problems. No lights were to be used southwest of the railroad.

- Q. And it was a general order that no vehicle in the maneuver area should travel with lights?
- A. Yes, sir.
- Q. Colonel Kenny, tell us how the accident happened?
- A. I was riding in the front seat with the driver, Private sturgell, to help him locate the roads and to get the protection from the windshield, and we were meeting trucks. The roadway was nice and wide and the driver eventually fell over to the right and kept going in a straight line, and all at once we struck the bannister of the culvert. The bridge does not cover the entire road and the bridge was enough narrower than the roadway that the jeep was struck in the center.
- Q. What happened to you as a result of the impact?
- A. When I took stock, my nose was bleeding and my knee was injured, and I felt that I could not move. My knee struck the dash and the map board. The driver was bleeding profusely from a busted nose.
- Q. What happened to you after the accident?
- A. I sat there in the command car and waited until some trucks came by from Railhead as I knew that some would be along. I had the driver take my electric lantern to wave them down. Captain Williams of the 157th Infantry was the first officer that came along and he was in the first truck. He stopped and got some men and took the driver up to the 179th Infantry First Aid Station and sent for the ambulance and the doctor came back after me.
- Q. What doctor was that?
- A. I do not know. He came and they lifted me out of the command car, put me on a stretcher, and took me to the first aid station where they put a stitch in my nose, and then took me to the Station Hospital here. When we got to the hospital here they took another stitch in my nose and X-rayed my leg

and elbow. They put a cast on my leg and then put me in a ward. After we settled down, I looked at my watch and it was 11:30, while sitting in the jeep, immediately after the accident. I was very careful not to move my leg or move around.

* * *

(d) 1st Lt. William Edgar Jones, Medical Corps, Station Hospital, Camp Barkeley, Texas, was sworn and testified as follows:

QUESTIONS BY COL. DUFFY

- Q. State your name, rank, and organization?
- A. William Edgar Jones, 1st Lt., Medical Corps, Station Hospital, Camp Barkeley, Texas.
- Q. Lieutenant, were you on duty in the Station Hospital here on the night of April 29, 1941 and morning of April 30, 1941?
- A. I was, sir.
- Q. Did you receive Colonel Kenny?
- A. Yes, sir.
- Q. Did you make examination of him?
- A. I did, sir.
- Q. And that is reflected in the diagnosis and report of this hospital?
- A. Yes, sir.
- Q. At the examination did you find him being under the influence of intoxicating liquor?
- A. No, sir.

(Witness Excused)

* * *

(e) 1st Lt. D. C. Hutcherson, Medical Corps, Station Hospital, Camp Barkeley, Texas, was sworn and testified as follows:

QUESTIONS BY COL. DUFFY

- Q. State your name, rank, and organization?

- A. D. C. Hutcherson, 1st Lt., Medical Corps, Station Hospital, Camp Barkeley, Texas.
- Q. Do you specialize in any particular form of medical practice?
- A. Yes, sir, Orthopedic Surgery.
- Q. Have you been observing Colonel Kenny since he has been here?
- A. Yes, sir.
- Q. Can you, at the present time, give the approximate percentage of any degree of partial or permanent disability, as a result of the fracture of Colonel Kenny's leg?
- A. At this time I cannot definitely say, but it is likely that there will be partial disability?
- A. At this time would you say there will be slight disability?
- A. At this time I would say a slight disability, unless some complication would arise.
- Q. Is it possible, at this time, to give a more definite opinion?
- A. No, I could not make a more definite statement at this time.
- Q. This statement goes solely to the fracture of the leg bone?
- A. Yes, sir.
- Q. The other injuries were slight and not serious?
- A. That is right.

(Colonel Kenny did not desire to question witness)

(Witness Excused)

* * *

Board adjourned at 10:10 AM, May 26, 1941, until such time that the testimony of Colonel James C. Stryon, Chief of Staff, 45th Division, could be taken.

* * *

The board reconvened at 10:00 AM, May 31, 1941, to hear the testimony of Colonel James C. Stryon, Chief of Staff, 45th Division, the same members being present and absent as in the previous session, May 26, 1941. Said Lt. Col. Roy W. Kenny was also present.

(f) Colonel James C. Styron, Chief of Staff, 45th Division, was sworn and testified as follows:

QUESTIONS BY COL. DUFFY

Q. State your name, rank, and organization?

A. James C. Styron, Colonel, Chief of Staff, 45th Division.

Q. Were you, on the 29th and 30th of April, 1941, Chief of Staff of the 45th Division?

A. I was.

Q. I call your attention to a copy of Field Order No. 20, issued by VIII Corps Area on the 29th day of April, 1941, and particularly to paragraph 3b(2) of said order, and will the Colonel read into the record the said paragraph?

A. "All movement after dark to be made without lights."

Q. In accordance with that order, did you as Chief of Staff of the 45th Division, for the Commanding General, 45th Division, instruct your assistants, including Assistant Chief of Staff G-4, Lt. Col. Roy W. Kenny, to perform all operations after dark without lights?

A. I did.

Q. At the time of the accident was he carrying out the normal duties as pertain to his duties under that Corps order?

A. He was.

Q. Under your direction as Chief of Staff for the Commanding General, in the order that was made out through your office in conformity with the Corps order?

A. He was.

(Colonel Kenny did not desire to question the witness.)

(Witness Excused)

* * *

5. FINDINGS:

Having carefully considered the evidence before it, the board finds that the injury was incurred in the following manner:

(1) It was incurred at 9:30 o'clock P. M., April 29, 1941.

(2) It was incurred at a culvert or bridge between the railhead and munitions dump, 45th Division, and Headquarters Forty Fifth Division on Texas State Highway No. 158.

(3) That said Lt. Col. Roy W. Kenny was, at the time of the incurrence of said injury, duly and in obedience to orders of the Commanding General, 45th Division, performing his duties as Assistant Chief of Staff G-4, 45th Division, in certain official maneuvers and field exercises in which the personnel of the said 45th Division were then and there engaged.

(4) That said Lt. Col. Roy W. Kenny was sober at the time of the incurrence of said injury and that the accident occurred through no fault, negligence, or misconduct of said officer.

(5) The board further finds that in said accident Lt. Col. Roy W. Kenny incurred an injury to his right knee consisting of a fracture of the internal tibial condyle extending into the knee joint, which fracture was in good position with very little displacement. That he had a large hematoma over the right knee, that the right knee was swollen with swelling under skin over upper anterior tibia, very soft, due to hematoma. That he also sustained an intracondylar fracture of the upper tibia with little or no displacement of fragments. The board further finds that while there is, at the present time, some indication of a possible permanent partial disability, that it is impossible to ascertain the extent thereof, if any such permanent partial disability exists, and that the true status of condition of Lt. Col. Roy W. Kenny cannot be ascertained until he is discharged from the hospital and a complete diagnosis and prognosis is made by a competent board of medical officers at that time. That he also sustained a fracture of his nasal bones with deviation to the right and contusions to his right elbow, from which, no permanent disability is expected.

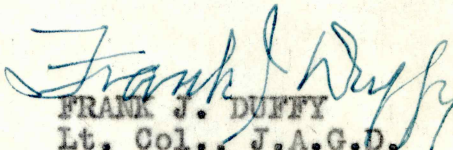
(6) It is the opinion of the board that the injury was incurred in line of duty and was not due to the misconduct of Lt. Col. Roy W. Kenny.


6. RECOMMENDATIONS:

In view of the above findings, the board recommends that the hereinabove described injury to Lt. Col. Roy W. Kenny be considered to have been incurred in line of duty and not due to misconduct of said officer.

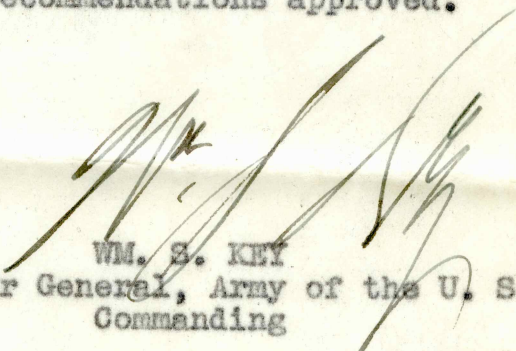
I have carefully read and examined all of the evidence in the foregoing proceedings and concur in the findings and recommendations of the memberent and recorder of the board.

ELBERT C. MONRO
Lt. Col., 158th Inf.
President


FRANK J. DUFFY
Lt. Col., J.A.G.D.
Staff Judge Advocate
Memberent


PASHUPATI J. SARMA
Lt. Col., MC
Station Hospital
Recorder

Proceedings, findings, and recommendations approved.


WM. S. KEY
Major General, Army of the U. S.
Commanding

STATION HOSPITAL
CAMP BARKELEY, TEXAS

May 16, 1941.

Subject: Line of Duty Board.

To : The Commanding General, Camp Barkeley, Texas.

1. Under the provisions of paragraph 1c (4) (b) AR 345-415, dated November 3, 1935, request that a Board of Officers be appointed to determine the Line of Duty status in the case of: Lt. Colonel ROY W. KENNY, General Staff Corps, admitted to Station Hospital, Camp Barkeley, Texas, April 30, 1941, on account of an injury, which, in the opinion of the surgeon, is likely to result in a partial or complete permanent physical disability.

2. Medical officer recommended for the board:
Lt. Colonel PASHUPATI J. SARMA, MC., (member).

For the Commanding Officer:

C. A. Jones,
1st Lieut., Med. Adm. C.,
ADJUTANT.

A TRUE COPY

Frank J. Duffy
FRANK J. DUFFY
Lt. Col., J.A.G.D.
Staff Judge Advocate

"EXHIBIT A"

HEADQUARTERS
Camp Barkeley, Texas

WBW/wra

May 27, 1941.

SPECIAL ORDER:

No 40:

E X T R A C T

X

X

X

2. Paragraph 1, Special Order No. 37, Headquarters Camp Barkeley, Texas, dated May 14, 1941, is hereby revoked.

3. At the request of the Camp Surgeon, and pursuant to authority contained in paragraph 1c (4) (b), AR 345-415, dated November 3, 1935, the following named Board of Officers is appointed to investigate the injury of Colonel ROY W. KENNY, General Staff Corps, and report on all circumstances connected with incurrence of the injury.

Lt. Col. FRANK J. DUFFY, JAGD
Lt. Col. ELBERT C. MONRO, Inf.
Lt. Col. PASHUPATI J. SARMA, MC.

X

X

X

By command of Major General KEY:

CHAS. McK. KEMP,
Lt. Colonel, Infantry,
Camp Executive.

OFFICIAL:

WELDON B. WELLS,
1st Lieut., AGD,
Ass't Camp Adjutant.

"EXHIBIT B"

A TRUE COPY:

FRANK J. DUFFY
Lt. Col., JAGD.
Staff Judge Advocate

GENERAL ORDERS)

NO.

9)

Hq. 45th Division
Lincoln Park Armory
Oklahoma City, Okla.
September 19, 1940

MOVEMENT OF UNITS OF THE
45TH DIVISION TO FORT SILL,
OKLAHOMA, 22 to 26 SEPT. 1940

E X T R A C T

1. The 45th Division less 45th Tank Co. will concentrate at Fort Sill, Oklahoma, in accordance with instructions contained in letter Hq. VIII Corps Area (AG325(NG) 16 September 1940, movement tables attached thereto, and supplemental movement tables herewith.

2. Units in Arizona, Colorado, and New Mexico, in addition to the above, will receive detailed instructions from their respective United States Property and Disbursing Officers. The instructions herein apply to them upon arrival at Fort Sill.

X

X

X

By command of Major General KEY:

JAMES C. STYRON
Col. FA
Chief of Staff

OFFICIAL:

FRANCIS J. REICHMANN
Lt. Col. FA
AC of S, G-3

"EXHIBIT C"

A TRUE COPY:

Frank J. Duffy
FRANK J. DUFFY
Lt. Col., JAGD.,
Staff Judge Advocate

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D 4 - 45th DIVISION
Camp Barkeley, Texas
29-30 April 41

ANNEX NO. 2 TO FIELD ORDER NO. 20.

HQ. VIII ARMY CORPS
RJ at LAKE ABILENE PARK, TEXAS
6:00 PM, 29 April 41

ADM O 9 To accompany FO 20.

Maps: No change.

1. SUPPLY.

a. Railheads: (43d and 45th Divisions)

(1) FORT CHADBOURNE - Daily train arrives 9:00 PM, 29 April 41.

(a) Class I Supplies and hours of distribution:

45th Division - - - - - 9:30 PM - 1:30 AM

43d Division - - - - - 1:30 AM - 5:30 AM

(b) Water:

Water Supply Points will be established by division.

(c) Ammunition:

Supply Point (all classes): FORT CHADBOURNE opens
9:30 PM, 29 April 41.

(2) BRADSHAW - Daily train arrives 9:00 PM, 29 April 41.

(a) x x x

36th Division

 x x x

(3) WINTERS - Daily train arrives 9:00 PM, 29 April 41.

(a) x x x

34th Division
18th FA Brigade
Remainder Corps Troops.

 x x x

2. EVACUATION.

a. Casualties:

By Army from Division Clearing Stations.

b. Prisoners of War:

By Army from Division Railheads.

ADM 0 9 (Cont'd)

3. TRAFFIC.

a. Main Supply Roads:

- (1) 43d and 45th Divisions: HIGHWAY 158.
- (2) 36th Division: HIGHWAY US 83.
- (3) 34th Division: HIGHWAY 277.

b. Restrictions:

- (1) Priority to combat elements 45th Division on Hwy 158 west of CEDAR CREEK.
- (2) All movement after dark to be made without lights.

4. SERVICE TROOPS AND TRAINS.

120th Ordnance Company released to 45th Division.

5. PERSONNEL.

a. Mail:

Distribution suspended.

6. MISCELLANEOUS.

a. Drinking water: Chlorinate.

b. Other administrative details: No change.

KRUEGER.

OFFICIAL:

Massey
Actg. G - 4

BLUE

BLUE

BLUE

- 2 -

A TRUE COPY:

Frank J. Duffy
FRANK J. DUFFY
Lt. Col, JAGD
Staff Judge Advocate