

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

JUL 07 1993

IN THE MATTER OF:

DOCKET NUMBER: 97-00144

COUNSEL: None

HEARING DESIRED: No

APPLICANT REQUESTS THAT:

His reenlistment eligibility (RE) code be changed to one that will allow reenlistment in the Air Force Reserve.

APPLICANT CONTENDS THAT:

He was discharged due to a medical review board's belief that he suffered from a partial complex seizure disorder. He can find no evidence to support this belief in his medical records.

In support, he submits a personal statement and several documents from his medical records. Also provided is a 12 July 1995 letter from a civilian neurologist who feels that applicant's two episodes of unconsciousness were vasovagal syncope (simple faint) and that he does not have epilepsy.

Applicant's complete submission is attached at Exhibit A.

STATEMENT OF FACTS:

Applicant enlisted in the Regular Air Force on 10 December 1990.

A Medical Evaluation Board (MEB) Summary dated 28 February 1994 reflects that applicant was first examined in December 1993 after an episode of brief unconsciousness in September 1993 while a passenger in a commercial airplane. He experienced no generalized body shaking, tongue biting, muscle pain, or loss of bowel/bladder. Applicant indicated he had passed out one other time after working out in the gym four hours after a meal. He had felt weak and tired and had lain down on a bench. He had intermittent periods of weakness and confusion after these episodes but no loss of consciousness. He was currently asymptomatic. A neurologic consultation in January 1994 [a brain scan was performed on 14 Jan 94 by the Fitzsimons Army Medical Center] led to a diagnosis of probable complex partial seizure disorder and applicant was started on Dilantin. Endocrinology

diagnosed reactive hypoglycemia and probable Gilbert's disease (*benign hereditary excess bile pigment in the blood characterized by intermittent jaundice and commonly by fatigue, weakness and abdominal pain*). The Summary's final diagnosis was partial complex seizure disorder, reactive hypoglycemia and probable Gilbert's disease. Recommendation was continued use of Dilantin and frequent small meals.

An MEB convened on 2 March 1994. The diagnoses were the same as those in the above-mentioned MEB Summary. The MEB recommended referral to a Physical Evaluation Board (PEB).

An Informal PEB convened on 25 March 1994. The board recommended the applicant be discharged with severance pay for partial complex seizure disorder with a compensable percentage of 10%. Other diagnoses considered but not ratable were reactive hypoglycemia and probable Gilbert's disease. Applicant indicated his concurrence with the findings and recommendations on 4 April 1994.

He was honorably discharged under the provisions of AFR 35-4 with 10% severance pay on 17 May 1994 in the grade of senior airman. He was given an RE code of "2Q" (*Medically retired or discharged*) and a separation code of "JFL" (*Disability, severance pay*). He had 3 years, 5 months and 8 days of active service.

AIR FORCE EVALUATION:

The Chief, Physical Disability Division, HQ AFPC/DPPD, reviewed this appeal and states that the disability laws of Title 10, USC, require military services to rate disabilities based on their current condition at the time of disability processing. While the applicant and his current physician believe that he does not suffer from partial complex seizure disorder and that he may not have been suffering from it at the time of his discharge, the material contained in the case file shows that he was appropriately diagnosed, rated for compensable percentage of disability and discharged from the Air Force with severance pay. The author recommends denial from the Personnel perspective of the Air Force disability evaluation system. No irregularities or injustices were found in the processing of his case to merit changing his records. The author recommends a medical advisory be obtained. Should the applicant's request be denied, the author recommends the applicant pursue this matter from the perspective of getting a waiver for his RE code through either AFPC/DPPAE or HQ ARPC.

A complete copy of the Air Force evaluation is attached at Exhibit C.

The AFBCMR Medical Consultant also evaluated this case and contends that the evidence is inconclusive in supporting the diagnosis for which the applicant was separated with severance

pay. Unless there are other medical records to the contrary, it would seem prudent to consider revision of his RE code to allow his participation in Reserve activities. MEB narrative states he had "probable complex partial seizure disorder," a rather vague reason for a medical separation. AFI 48-123 states that "disturbances of consciousness. . . if there is any indication that such involvement is likely to interfere with prolonged normal function . . ." is disqualifying for induction or enlistment and perhaps would require a thorough evaluation and possible waiver from HQ AFRES/SG to allow applicant to achieve his desired Reserve status. The Consultant recommends applicant's request be approved as it is unclear if sufficient medical evidence exists to support the reason for his separation.

A complete copy of the Air Force evaluation is attached at Exhibit D.

The Chief, USAF Physical Disability Division, HQ AFPC/DPPD, reviewed the AFBCMR Medical Consultant's evaluation and does not concur with the recommendation, believing that the applicant was appropriately processed and rated. The author stands by his previous assessment.

A complete copy of the Air Force evaluation is attached at Exhibit E.

The Chief, Special Activities, HQ AFPC/DPPAES, confirms that the RE code applicant received is correct and was driven by his discharge. If the decision is to grant the relief sought, the author recommends the RE code be changed to "3K" (*Reserved for use by HQ AFPC and the AFBCMR*).

A complete copy of the Air Force evaluation is attached at Exhibit F.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Complete copies of the Air Force evaluations were forwarded to the applicant on 2 September 1997 for review and comment within 30 days. As of this date, no response has been received by this office.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice to

warrant partial relief. Although the applicant does not specifically state which RE code he wants, we presume he desires one of the "Eligible for Immediate Reenlistment," or "1" series, RE codes. However, after a thorough review of the available documentation, including the two conflicting opinions from the Air Force, we believe an appropriate remedy would be to grant him an RE code from the "3" series. While this series indicates "Conditions Barring Immediate Reenlistment," these codes, unlike the "2" series he is presently in, are "waiverable." In other words, an RE code from the "3" series would permit him to apply for enlistment and, should he have desirable skills and is otherwise medically acceptable, the Reserves may elect to waive his ineligibility and allow him to enlist. The applicant should understand that this RE code change in no way obligates any of the Services to accept him for enlistment. We determined this compromise is appropriate in view of the fact that the precise nature of his medical condition is unclear. We believe that he should be given some benefit of the doubt, or at least be allowed the opportunity to prove he has no disqualifying condition. At the same time, we do not believe he should be made immediately eligible for reenlistment if he, in fact, has a medical condition that could put himself and others at risk. Therefore, we recommend that his records be corrected to reflect he was discharged with an RE code of "3K" (*Reserved for use by HQ AFPC and the AFBCMR*).

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that, in conjunction with his honorable discharge on 17 May 1994, he was issued a reenlistment eligibility (RE) code of "3K," rather than "2Q."

The following members of the Board considered this application in Executive Session on 12 May 1998, under the provisions of AFI 36-2603:

Mr. Thomas S. Markiewicz, Panel Chair
Mr. Richard A. Peterson, Member
Mr. Loren S. Perlstein, Member

All members voted to correct the records, as recommended. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 27 Jan 97, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFPC/DPPD, dated 4 Mar 97.
- Exhibit D. Letter, AFBCMR Medical Consultant, dated 29 May 97.

Exhibit E. Letter, HQ AFPC/DPPD, dated 7 Aug 97.
Exhibit F. Letter, HQ AFPC/DPPAES, dated 18 Aug 97.
Exhibit G. Letter, AFBCMR, dated 2 Sep 97.

A handwritten signature in black ink, appearing to read "Thomas S. Markiewicz", written in a cursive style with a large, sweeping flourish at the end.

THOMAS S. MARKIEWICZ
Panel Chair



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

JUL 07 1998

Office of the Assistant Secretary

AFECMR 97-00144

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] [REDACTED] be corrected to show that, in conjunction with his honorable discharge on 17 May 1994, he was issued a reenlistment eligibility (RE) code of "3K," rather than "2Q."


JOE G. LINEBERGER
Director
Air Force Review Boards Agency