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RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NO: 97-031 1

COUNSEL: [REDACTED] JUN 12 1998

HEARING DESIRED: NO

[REDACTED]
[REDACTED]

Applicant requests that his 20 April 1989 general— (under honorable conditions) discharge be changed to a medical retirement. Applicant's submission is at Exhibit A.

On 19 September 1997, the Air Force Discharge Review Board (AFDRB) denied applicant's request for upgrade of his discharge to honorable, change of reason for discharge, and change of reenlistment, eligibility (RE) code (Exhibit C).

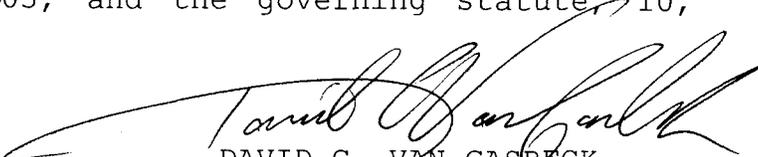
The appropriate Air Force offices evaluated applicant's request and provided advisory opinions to the Board recommending the application be denied (Exhibit D). The advisory opinions were forwarded to the applicant for review and response (Exhibit E). As of this date, no response has been received by this office.

After careful consideration of applicant's request and the available evidence of record, we find insufficient evidence of error or injustice to warrant corrective action. The facts and opinions stated in the advisory opinions appear to be based on the evidence of record and have not been rebutted by applicant or counsel. Absent persuasive evidence applicant was denied rights to which entitled, appropriate regulations were not followed, or appropriate standards were not applied, we find no basis to disturb the existing record.

Accordingly, applicant's request is denied.

The Board staff is directed to inform applicant of this decision. Applicant should also be informed that this decision is final and will only be reconsidered upon the presentation of new relevant evidence which was not reasonably available at the time the application was filed.

Members of the Board Mr. David C. Van Gasbeck, Mr. Richard A. Peterson, and Mr. Kenneth L. Reinertson considered this application on 9 June 1998 in accordance with the provisions of Air Force Instruction 36-2603, and the governing statute, 10, U.S.C. 1552.


DAVID C. VAN GASBECK
Panel Chair

Exhibits:

- A. Applicant's DD Form 149
- B. Available Master Personnel Records
- C. AFDRB Brief
- D. Advisory Opinions
- E. SAF/MIBR Ltr Forwarding Advisory Opinions

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE, TEXAS

22 Jan 98

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPD
550 C Street West Ste 06
Randolph AFB TX 78150-4708

SUBJECT: Application for Correction of Military Records [REDACTED]
[REDACTED]

REQUESTED ACTION: Applicant requests that his Apr 89 administrative discharge be changed to a disability discharge.

FACTS: Applicant was involuntarily separated from the Air Force on 10 Apr 89 for misconduct due to a pattern of minor disciplinary infractions under the provisions of AFR 39-10. Member completed fourteen years, nine months, and eighteen days of active duty.

DISCUSSION: The purpose of the military disability system is to maintain a fit and vital force **by** separating members who are unable to perform the duties of their grade, office, **rank** or rating. Members who are separated or retired for reason of physical disability may be eligible, if otherwise qualified, for certain disability compensations. Eligibility **for** disability processing is established by a Medical Evaluation **Board** (MEB) when that board finds that the member may not be qualified for continued military service. The decision to conduct **an** MEB is made by the medical treatment facility providing care to the member.

We carefully reviewed the AFBCMR application and **verify** that the applicant was never referred to or considered by the Air Force Disability Evaluation System under the provisions of AFR 35-4. Had the applicant been referred to the physical disability system during his last year of service, prior to his separation in 1989, he would have had to overcome the "presumption of fitness". This doctrine holds that a member's continued performance of duty until their scheduled separation or retirement creates a presumption that the member is fit for continued active service. As outlined in DoD Directive 1332.18, "Separation from the Military **Service by Reason of Physical Disability**", one overcomes this presumption (1) only when the member, because of their disability, **was** physically unable to perform adequately the duties of their office, grade, **rank** or rating or that (2) acute, grave illness or injury or other deterioration of the member's physical condition occurs immediately prior to or coincident with their processing for a non-disability retirement or separation. Neither of these conditions were present in the applicant's case. The medical aspects of this case are fully explained **by** the Medical Consultant; we fully agree with his advisory.

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RECOMMENDATION: We recommend denial of the applicant's request. The applicant has *not* submitted any material **or** documentation to **show** that he **was** eligible for processing under disability law and policy at **the time of** his discharge.



STEPHEN J. CHMIOLA, Colonel, USAF
Chief, Physical Disability Division
Directorate of Pers Prog Management

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8 January 1998
97-03151

MEMORANDUM FOR AFBCMR

FROM: BCMR Medical Consultant
1535 Command Drive, EE Wing, 3rd Floor
Andrews AFB MD 20762-7002

SUBJECT: Application for Correction of Military Records


Applicant's entire case file has been reviewed and is forwarded with the following findings, conclusions and recommendations.

REQUESTED ACTION: The applicant was separated with a general, under honorable conditions discharge on 20 April 1989 under the provisions of AFR 39-10 for a pattern of minor disciplinary infractions after serving 14 years, 9 months, 18 days on active duty. He now applies requesting the records be changed to show a medical retirement.

FACTS: Review of available medical records shows the applicant received extensive medical attention throughout his years of service for various conditions. Most prominent are mental health clinic visit notes where he visited often for **job-related** stresses and anxiety related to family separation during his assignment in New Mexico while his family remained in Colorado. He was never diagnosed with a psychiatric disease that would have brought him under scrutiny for a disability evaluation. Similarly, long-standing, and pre-existing, problems with hearing loss and ringing in his ears were not considered disqualifying for military duty, and he was not considered for disability based on these problems. His record, **otherwise, shows** many clinic and occasional hospital stays for other minor medical problems which were not of sufficient severity to trigger a disability consideration. He underwent a physical examination on 25 Jan 89 prior to his separation which found him qualified for worldwide duty.

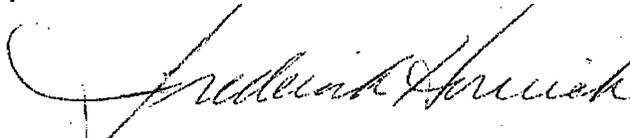
DISCUSSION: Evidence of record and medical examinations prior to separation indicate the applicant was fit and medically qualified for continued military service or appropriate separation and did not have any physical or mental condition which would have warranted consideration under the provisions of AFR 35-4. Reasons for discharge and discharge proceedings are well documented in the records. Action and disposition in this case are proper and reflect compliance with Air Force directives which implement the law.

While the applicant was treated for some ordinary medical problems while on active duty, as will occur in most service members, none of these problems singly, nor any combination of them, was of sufficient severity to justify a finding of unfit. There is no evidence to suggest that the applicant deserved consideration for separation through the Medical Disability Evaluation System.

Evidence of record establishes beyond all reasonable doubt that the applicant was medically qualified for continued active duty, that the reason for his separation was proper, and that no error or injustice occurred in this case.

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RECOMMENDATION: The Medical Consultant is of the opinion that no change in the records is warranted and the application should be denied.



**FREDERICK W. HORNICK, Col., USAF, MC, FS
Chief Medical Consultant, AFBCMR
Medical Advisor SAF Personnel Council**

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