Work-Product

UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2013-03241-2

COUNSEL: Work-Product

HEARING REQUESTED: YES

APPLICANT'S REQUEST

The Board reconsider her request for a medical retirement or in the alternative, be referred to the Disability Evaluation System (DES) for her service-connected Idiopathic Pulmonary Fibrosis.

RESUME OF THE CASE

The applicant is a former Air Force first lieutenant (O-2) who was honorably discharged after serving two years, five months, and five days of active service.

On 6 May 14, the Board considered and denied her request for a medical retirement with a 60 percent disability rating but granted her request to change her narrative reason for separation. The Board found the applicant had provided insufficient evidence of an error or injustice to justify granting her a medical retirement agreeing with AFPC/DPFDD and the AFBCMR Medical Consultant's advisory opinions. However, the Board did agreed her narrative reason of separation of "Personality Disorder" was an injustice causing negative stigma and granted her request to change her narrative reason of separation to "Secretarial Authority."

For an accounting of the applicant's original request and the rationale of the earlier decision, see the AFBCMR Letter and Record of Proceedings at Exhibit G.

On 12 Jan 22, the applicant requested reconsideration of her request for a medical retirement, or in the alternative, be referred to the Disability Evaluation System (DES) for her service-connected Idiopathic Pulmonary Fibrosis. She again contends, through counsel, she should have been retired for her debilitating and life-threatening disease. She was a successful and well educated civilian social worker who sought to serve her country and joined the Air Force to provide a service to other service members. Shortly after joining the Air Force, she began to show symptoms of what would eventually be a life-changing disease. The symptoms interfered with her ability to perform affecting her mind, body, and soul. She eventually visited her Primary Care Manager (PCM) and was sent for a number of tests. The test results confirmed a diagnosis of idiopathic non-specific interstitial lung disease and it was determined she could never deploy and would need lifelong care. She did not know the details of the DES process and her command and leadership created roadblocks throughout this process, attempting to contradict every reason she should have received a medical retirement. They went so far as to tell her they would never allow her to receive a

medical retirement. Despite these bullying tactics, she followed the guidance of others and completed the DES process that determined she had unfitting conditions that would be rated at 30 percent, thus qualifying her for the medical retirement. Yet, in the end, she was denied that retirement by her vindictive command exercising undue command influence. The Air Force erroneously and unjustly separated her from the service before the finality of the DES process.

In support of her reconsideration request, the applicant did not submit any new evidence that was not previously considered by the Board.

The applicant's complete submission is at Exhibit H.

AIR FORCE EVALUATION

The AFBCMR Medical Advisor recommends granting the application. The nature of difficulties experienced by the applicant during CY 2009 and observed in Jan 10, set the trajectory for an administrative discharge and were unrelated to her pulmonary disease or its treatment. The Medical Advisor agrees that after being diagnosed with the pulmonary disease and given the grim prognosis [5-year 50 percent mortality] and possible need for lung transplant, likely worsened the applicant's Adjustment Disorder and inadaptability to military service; prompting removal from the training program and assignment to non-patient care duties. The Medical Advisor recommends collective favorable consideration of the difficulties reported by the applicant on 4 Feb 10, the comparative gravity of the pulmonary disease, the negative prejudicial expectations of poor performance prior to arrival at her residency, and the factors contributing to her Adjustment Disorder in invalidating the current basis for discharge to a medical retirement.

The Medical Advisor and the Board are challenged with determining whether or not there is potential for contributory causation of the applicant's performance difficulties, beginning in Commissioned Office Training (COT) in 2009 and again in Jan 10, by yet to be diagnosed pulmonary disorders [interstitial pulmonary fibrosis or pneumonia and obstructive sleep apnea]. If one enumerates some of the applicant's physical complaints, e.g., fatigue, inattention, inability to concentrate, then one can postulate these could be the result of one or the other aforementioned medical conditions, e.g., nonrestorative sleep secondary to untreated obstructive sleep apnea or inability to meet fitness requirements due to poor conditioning or a pre-existing restrictive lung disease. For example, the applicant's normal pulse oximetry measurements, at rest, demonstrated sufficient oxygenation to support normal physiologic [physical and brain] functioning; without need for supplemental oxygen. However, noting the oxygen desaturation to 90 percent, after 10 minutes of self-paced exercise, in the context of the restrictive lung disease, does indicate a possible physiologic impediment to the applicant's ability to reach her fitness goals; as also suspected by the Health and Wellness Center staffer. However, this would not explain any behavioral or performance problems, some bordering on misconduct, when not under physical exertion; other than being possible manifestations of the collective stressors of military service, her training program, with the additive effect of ultimate knowledge of her incurable medical diagnosis, and fear of a lung transplant or death; hence the diagnosis of Adjustment Disorder.

The Medical Advisor concedes that the applicant's restrictive lung disease [if it existed prior to service] versus poor conditioning, may have contributed to the applicant's fitness failures during

her first rotation through COT. The Medical Advisor also concedes that untreated obstructive sleep apnea may have interfered with her alertness at a given time [noting symptoms during "night-call"]. However, the Medical Advisor opines there is no compensable causal relationship between some of the applicant's demonstrated unrelated performance deficiencies, during CY 2009 and Jan 10, which was prior to receiving the official pulmonary diagnosis, prognosis, or its treatment beginning in May 10. The Medical Advisor, instead, opines the collective influence of the applicant's pulmonary diagnosis, and enduring at least one missed abortion, were sufficient compounding stressors that further contributed to problems with concentration and fatigue and were probable by-products of and manifestations her Adjustment Disorder; as opposed to any cognitive or metabolic deficit caused by her restrictive pulmonary disease. Even the applicant conceded, referring to the incidents of Jan 10, "It appears these issues were not willful misconduct on my part, but rather manifestations of the stress and anxiety I was under." The Medical Advisor is prohibited from speculation and conjecture per DoDI 1332.18, *Disability Evaluation System;* however, the Medical Advisor wishes the Board to consider the age of the applicant upon acceptance into military service, the difficulties she initially experienced in COT, the notification of the reason for her delayed arrival to her residency, and the numerous memos for record (MFR) concentrated in Jan 10, that suggest a possible hostile training environment, each contributing to her maladaptive pattern of behavior.

For the Military Department, Adjustment Disorder, of less than six months duration, is considered unsuitable and not eligible for processing through a Medical Evaluation Board (MEB). When Adjustment Disorder has exceeded six months, under current DoD policy, the condition becomes designated as chronic, rendering the individual eligible for MEB processing for this condition. However, given the 0 percent disability rating assigned by the Department of Veterans Affairs (DVA) for the Adjustment Disorder, under the Integrated Disability Evaluation System (IDES), had the applicant been processed through the DES for Chronic Adjustment Disorder and if found unfit, this would not augment the combined disability rating beyond the 30 percent assigned for interstitial restrictive pulmonary disorder.

The complete advisory opinion is at Exhibit I.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 13 Oct 22 for comment (Exhibit J), and the applicant replied on 10 Nov 22. In her response, the applicant's counsel contends the advisory opinion from the Board's Medical Advisor discusses many aspects of this case; however, many facts are not mentioned. The opinion states the pulmonary disease, and its treatments are unrelated to her discharge; yet, this cannot be further from the truth. The applicant was undergoing the MEB process and had already received a determination that she was unfit for continued service; a rating equivalent to a medical disability retirement. The Medical Advisor's opinion is flawed because it states that there is no compensable causal relationship between her performance and medical diagnoses. The drafter of the opinion wants to point to the date of the diagnoses but makes no mention of the symptoms affecting her for months prior to receiving a diagnosis. The date of diagnosis is not the material fact in this case; the onset of symptoms prior to a diagnosis is the fact the Board must review. The applicant almost immediately demonstrated symptoms that led to her diagnosis of her lung disease, sleep apnea, and adjustment disorder. Furthermore, the opinion does

not address the fact the Air Force's medical provider specifically stated the applicant was not qualified for separation nor does it discuss the undue influence of her command on the PEB. In conclusion, the symptoms and diagnoses clearly had a severe impact on her ability to perform in the Air Force and the biases of her leadership led to an unjust discharge. Therefore, the Air Force clearly made an error in separating her before the completion of her DES that already had her unfit for continued service with a rating that provided her a medical retirement.

The applicant's complete response is at Exhibit K.

FINDINGS AND CONCLUSION

1. The application was timely filed.

2. The applicant exhausted all available non-judicial relief before applying to the Board.

3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. The Board concurs with the rationale and recommendation of the AFBCMR Medical Advisor and finds a preponderance of the evidence substantiates the applicant's contentions. Specifically, the Board agrees the applicant should have been granted a medical retirement instead of an administrative discharge, finding numerous instances of her struggles throughout her career to include a possible hostile training environment coupled with her the grim prognosis of her pulmonary disease contributed to her maladaptive pattern of behavior. Therefore, the Board recommends correcting the applicant's records as indicated below.

4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show the following:

a. On 19 July 2011, she was found unfit to perform the duties of her office, rank, grade, or rating by reason of physical disability, incurred while she was entitled to receive basic pay; the diagnosis in her case was Interstitial Lung Disease, her condition was under Veteran Affairs Schedule for Rating Disabilities (VASRD) code 6899-6825, rated at 30 percent; the degree of impairment was permanent; the disability was not due to intentional misconduct or willful neglect; the disability was not incurred during a period of unauthorized absence; and the disability was not received as a direct result of armed conflict or caused by an instrumentality of war.

b. On 2 December 2011, she was discharged from active duty and on 3 December 2011, she was permanently retired with a compensable percentage for physical disability of 30 percent.

c. Her election of the Survivor Benefit Plan option will be corrected in accordance with her expressed preferences and/or as otherwise provided for by law or the Code of Federal Regulations.

CERTIFICATION

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2013-03241-2 in Executive Session on 30 Nov 22 and 2 Mar 23:

Work-Product, Panel Chair
Work-Product, Panel Member
Panel Member

All members voted to correct the record. The panel considered the following:

Exhibit G: Record of Proceedings, w/ Exhibits A-F, dated 6 May 14.
Exhibit H: Application, DD Form 149, w/atchs, dated 12 Jan 22.
Exhibit I: Advisory Opinion, AFBCMR Medical Advisor, dated 11 Oct 22.
Exhibit J: Notification of Advisory, SAF/MRBC to Applicant, dated 13 Oct 22.
Exhibit K: Applicant's Response, dated 10 Nov 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

7/31/2023

Work-Product

Board Operations Manager, AFBCMR
Signed by: USAF