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**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

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DOCKET NUMBER: BC-2015-02206-2

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT’S REQUEST

The Board reconsider his request for the following:

1. He be evaluated by a Medical Evaluation Board (MEB) and medically discharged/retired.
2. His line of duty (LOD) determination be updated to reflect all service-connected disabilities (*amended request*).
3. He receive a full honorable discharge with benefits to include TRICARE, dependent benefits, medical retirement identification card, and back pay with cost-of-living increase (*amended request*).

RESUME OF THE CASE

The applicant is a retired United States Air Force Reserve (USAFR) sergeant (E-4).

On 15 Mar 16 and 28 Sep 16, the Board considered and denied his request to be evaluated by a MEB or Physical Evaluation Board (PEB) and either be medically separated or medically retired; finding the applicant had provided insufficient evidence of an error or injustice to justify relief. The Board also found the prior request was not timely submitted.

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 6 Oct 21, 17 Mar 22, and 18 Mar 22, the applicant submitted DD Forms 149, *Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552*. On 24 Oct 22, the Board closed the applicant’s case as non-viable because his request did not state a clear and concise specification of an error(s) or injustice within his military record and nor state the desired correction. The applicant was notified his case would be reopened to resume adjudication once he responded accordingly.

On 9 Apr 22, the applicant requested reconsideration of his request to be evaluated by a MEB and medically retired, and new considerations for his LOD determination be updated with all of his service-connected disabilities and he receive a full honorable discharge with benefits to include TRICARE, dependent benefits, medical retirement identification card, and back pay with cost-of-living increase. He again contends he was injured while in line of duty (ILOD) and was hospitalized for more than 24 hours. He received an honorable discharge but with no benefits.

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This was an oversight and racist. His dependents should also receive a medical retirement ID card. Furthermore, he was never evaluated for a mental health condition or received after care post-hospital discharge. He was given a nefarious drug called “Dalmane 30 mg” without being weaned off of the drug with the help of a mental health provider’s care and was made to sign himself out of the hospital fully medicated that he believed was against the law. He self-medicated with alcohol which led to major depression because he did not receive follow-up or after care. He believes his condition was exacerbated with his transfer from the USAFR to the United States Navy Reserve (USNR) and affected his career in the USNR.

In support of his reconsideration request, the applicant submitted the following new evidence: (1) Board for Correction of Naval Records denial letter, dated 15 Jan 22; (2) Army Inspector General (IG) complaint form, 7 Feb 22; (3) various Navy personnel documents; (4) Department of Veterans Affairs (DVA) rating decision, dated 4 Dec 19; (5) DVA claim, dated 10 Jan 22, (6) article titled, *Halcion - The Nightmare Drug*; (7) DVA letter, dated 1 Feb 22; (8) DVA decision letter, dated 27 Oct 22; and (8) medical progress notes, dated 6 Oct 22.

The applicant’s complete submission is at Exhibit H.

APPLICABLE AUTHORITY/GUIDANCE

The military Disability Evaluation System (DES), established to maintain a fit and vital fighting force, can by law, under Title 10, United States Code (10 U.S.C.), only offer compensation for those service incurred diseases or injuries which specifically rendered a member *unfit* for continued service and were the cause for career termination; and, then only for the degree of impairment present at the time of separation and not based on future occurrences. Pursuant to Chapter 61 of 10 U.S.C., PEBs determine the fitness of Service members with medical conditions that are, either singularly, collectively, or through combined effect, potentially unfitting and, for members determined unfit, determine their eligibility for compensation. Department of Defense Instruction (DoDI)1332.18, *Physical Disability Evaluation*, reads; A Service member shall be considered *unfit* when the evidence establishes that the member, due to physical disability, is unable to reasonably perform the duties of his or her office, grade, rank or rating; the disability represents a decided medical risk to their health or to the welfare or safety of other members; or the disability imposes unreasonable requirements of the military to maintain or protect the Service member.

On 25 Jul 18, the Under Secretary of Defense for Personnel and Readiness (USD P&R) (Wilkie memorandum) issued supplemental guidance to military corrections boards in determining whether relief is warranted based on equity, injustice, or clemency. These standards authorize the Board to grant relief in order to ensure fundamental fairness. Clemency refers to relief specifically granted from a criminal sentence and is a part of the broad authority Boards have to ensure fundamental fairness. This guidance applies to more than clemency from sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. Each case will be assessed on its own merits. The relative weight of each principle and whether the principle supports relief in a particular case, are within the sound discretion of each Board. In determining whether to grant relief on the basis of equity, an injustice, or clemency grounds, the Board should refer to the supplemental guidance, paragraphs 6 and 7.

On 18 Aug 23, Board staff provided the applicant a copy of the supplemental guidance (Exhibit M).

AIR FORCE EVALUATION

The AFRBA Psychological Advisor completed a review of all available records and finds insufficient evidence to support the applicant's request for an LOD determination and medical discharge/retirement for his mental health condition. The Psychological Advisor also opines liberal consideration is not appropriate to be applied to his request because this policy does not cover LOD and medical discharge/retirement requests.

The applicant was hospitalized for about three days during his initial active duty training period in 1984 when he began his service with the USAFR for his physical condition of cellulitis, right medial knee. He was prescribed Tylenol for fever and Dalmane for insomnia to be taken as needed. There are no records he received any refills for any of these medications especially Dalmane, no records he took Dalmane in the long-term, and no records he was dependent on Dalmane that would require supervision from a psychiatrist or psychiatry prescriber to be weaned off of this medication as he claimed. There are no records reflecting Dalmane was prescribed or taken for a mental health condition. He was prescribed this medication on the same day he was hospitalized for his physical condition and it was unspecified in his records the cause of his insomnia or how long he had insomnia. There are no records he had any recurring or chronic sleep problems. It is possible he was prescribed this medication because he was in the hospital as he may have had difficulties sleeping in that environment or his physical condition/pain caused him to have sleep problems. Despite the limited information, there is no evidence he had any mental health condition at any time of his service with the USAFR. Since there are no records of any reports or complaints from the applicant of any mental health issues made to his medical providers, an LOD was not necessary or required to be completed. He did receive an LOD determination for his physical condition when he was hospitalized and if he had or reported having a mental health condition around that time, an LOD for his mental health condition would have been completed as well. His records were absent of this activity. There are no records he struggled or experienced emotional distress after he was discharged from the hospital that would warrant a mental health evaluation and no evidence he coped with alcohol that led him to experience major depression because of no follow-up or after care as he contended. There is no evidence he had any unfitting mental health condition to include any sleep issues, depression, anxiety, etc. that would meet criteria to be referred to the MEB and PEB for a potential medical discharge/retirement. He was never placed on a duty limiting condition profile for his mental health condition, never deemed not worldwide qualified due to his mental health condition, and no statements from his leadership his mental health condition had impacted his ability to reasonably perform his military duties in accordance with his office, grade, rank, or rating. He was able to successfully complete his initial active duty training, attend drill weekends, annual trainings, and Reserve order duties, etc. thereafter for the next several years after his hospitalization, and he earned an honorable discharge from the USAFR on 23 Oct 88. He would not have achieved these accomplishments if he had an unfitting mental health condition. Furthermore, he successfully transferred to the USNR and began his service with the Navy the day after he was discharged from the USAFR that began on 24 Oct 88. The fact he was able to successfully transfer to the USNR signified he met accession standards and was determined to be fit for duty. This sequence of events provides additional support he did not have an unfitting mental health condition while he was in the USAFR.

The applicant's post treatment records from the DVA revealed he began to receive mental health treatment over 20 years after his discharge from the USAFR. His documented conditions of anxiety, depression, schizophrenia, cognitive issues, and PTSD were reported as being developed post USAFR service and caused by his post service experiences and stressors. He reported having legal problems, but they were from his service with the USNR and not with/from the USAFR. The applicant received a 100 percent service-connected rating from the DVA for his mental health condition of depressive disorder with anxious distress which is secondary due to another medical condition identified as pseudo folliculitis barbae (PFB), a skin condition caused by shaving. There

is a treatment note the applicant submitted showing he was seen at the shaving clinic on 28 Jun 84 for having a shaving problem developed after his basic military training service. He was placed on a profile for 12 days and was instructed to shave with a different type of razor. However, there is no evidence he developed or had depression or anxiety from this issue during his USAFR service, and it appeared he developed these conditions/symptoms post service causing him to meet diagnostic criteria for depressive disorder with anxious distress decades after discharge according to the available records. The DVA decision letter listed symptoms meeting criteria for the 100 percent evaluation. There are no records he experienced or had any of the listed symptoms during his time in the USAFR.

The complete advisory opinion is at Exhibit J.

The BCMR Medical Advisor completed a review of all available records and finds insufficient evidence to support the applicant's request for the desired changes to his record. No evidence existed as to identify the offending bacteria or the presence of worms within the blood. Furthermore, there was no evidence of any chronic infections, adverse immune disorders, or deficiencies in daily nutrition. His additional condition of 'lymphangitis' is defined as inflammation of lymphatic channels due to both, infectious and non-infectious causes. Such inflammation and swelling from lymphangitis recede when the associated skin condition/infection improves ... usually with antibiotics. As for his other non-mental health conditions of headaches and PFB; neither were considered as being unfitting whereby they caused the inability of the applicant to perform the duties of his rank, grade, rate, or rating.

The Medical Advisor finds no physical or medical condition which meets or qualifies for referral into the military DES. Post service DVA impairment ratings are not equivalent to physical conditions while in active military service nor are they to be automatically included in a previous LOD determinations.

The complete advisory opinion is at Exhibit K.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinions to the applicant on 29 Jun 23 for comment (Exhibit L), but has received no response.

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 remains unconvinced the evidence presented demonstrates an error or injustice. The Board concurs with the rationale of the AFRBA Psychological Advisor and the BCMR Medical Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board applied fundamental fairness to his request in accordance with the USD P&R supplemental guidance (Wilkie memorandum), dated 25 Jul 18, specifically paragraph 6.h., and considered relief on equitable, injustice, or clemency grounds whenever there is insufficient evidence to warrant relief for an error or impropriety; however, the Board finds his DVA service-connected mental health and medical conditions are not warranted to process through the military DES as a matter of equity or good conscience in accordance with DoDI 1332.18, *Disability Evaluation System*, Appendix 1 to Enclosure 3, paragraph 4. Specifically, these conditions were not a medical basis for career termination, nor did they meet the criteria for a referral to the MEB for a medical discharge or retirement. The

Board also notes the applicant's contention he did not receive a medical discharge and benefits due to racism. The Board finds no evidence in the record nor provided by the applicant the actions were based on racism. Therefore, the Board recommends against correcting the applicant's records.

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 Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2015-02206-2 in Executive Session on 21 Sep 23:

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

All members voted against correcting the record. The panel considered the following:

- Exhibit G: Record of Proceedings, w/ Exhibits A-F, dated 28 Sep 16.
- Exhibit H: Application, DD Forms 149, w/atchs, dated 6 Oct 21, 17 Mar 22, 18 Mar 22, 9 Apr 22 and 7 Nov 22.
- Exhibit I: Letter, SAF MRBC, dated 24 Oct 22.
- Exhibit J: Advisory Opinion, AFRBA Psychological Advisor, dated 1 Jun 23.
- Exhibit K: Advisory Opinion, BCMR Medical Advisor, dated 27 Jun 23.
- Exhibit L: Notification of Advisory, SAF/MRBC to Applicant, dated 29 Jun 23.
- Exhibit M: Letter, SAF/MRBC, w/atch (USD P&R Supplemental Guidance), dated 18 Aug 23.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

12/20/2023

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Board Operations Manager, AFBCMR
Signed by: Work-Product