RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2016-00105

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

Her discharge be changed to a medical retirement.

APPLICANT CONTENDS THAT:

Her record should be reviewed per “Congressionally mandated review.” She should have a 30 percent disability rating, which would qualify her for medical retirement.

The applicant’s complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

The applicant served in the grade of Technical Sergeant in the Oregon Air National Guard (ORANG) during the matter under review.

On 9 Feb 98, the applicant was furnished an honorable discharge, with a reason for discharge of “Disability: Entitled to Severance Pay,” and was credited with 19 years, 6 months, and 1 day of total service for pay.

The remaining relevant facts pertaining to this application are contained in the memorandum prepared by the Air Force office of primary responsibility (OPR), which is attached at Exhibit C.

AIR FORCE EVALUATION:

The AFPC Disabilities Office recommends denial indicating there is no evidence of an error or an injustice. Although the applicant did not specify which “Congressionally mandated review” she is referring to, we believe she is referring to the Physical Disability Board of Review (PDBR), which allows for reconsideration of medical discharges resulting from reductions taken by Physical Evaluation Boards. However, the PDBR was specifically implemented to cover those cases processed by the Disability Evaluation System (DES) for the period covering 9 Nov 01 through 31 Dec 09. The applicant was processed through the DES and was subsequently discharged for reasons of physical disability effective 1 Nov 92 (Sic).

At the time of her processing through the DES, the Physical Evaluation Boards (PEBs) had the authority to take deductions based on conditions that would not be separately unfitting, compensable or ratable (predisposing contributing factors) but impacted the severity of the unfitting condition (i.e., personality disorder, alcohol abuse, etc.). In the applicant’s case, the Informal (IPEB), imposed a 20 percent reduction for her predisposing contributing factor, resulting in a final compensable percentage of 10 percent and medical discharge vice medical retirement.

The applicant has neither filed a timely petition nor did she provide evidence of an injustice or irregularity in the processing of her disability case.

A complete copy of the AFPC Disabilities Office evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 20 Jun 16 for review and comment within 30 days (Exhibit D). As of this date, no response has been received by this office.

THE BOARD CONCLUDES THAT:

Insufficient relevant evidence has been presented to demonstrate the existence of an error or injustice. After a careful review of the applicant's contentions, documentation submitted in support of the request, and the available evidence of record, we are not convinced the applicant has provided sufficient evidence for us to conclude she is the victim of an error or injustice. We also note the applicant did not file the application within three years after the alleged error or injustice was discovered, or should have been discovered, as required by Title 10, United States Code, Section 1552 and Air Force Instruction 36-2603. While the applicant claims a date of discovery of less than three years prior to receipt of the application, we believe a reasonable date of discovery was more than three years prior to receipt of the application. Therefore, because we do not find it would be in the interest of justice to recommend granting relief, and the applicant has offered no plausible reason for the delay in filing the application, we cannot conclude it would be in the interest of justice to excuse the failure to timely file the application. Accordingly, we find the application untimely.

THE BOARD DETERMINES THAT:

The application was not timely filed and it would not be in the interest of justice to waive the untimeliness. It is the decision of the Board, therefore, to reject the application as untimely.

The following members of the Board considered AFBCMR Docket Number BC-2016-00105 in Executive Session on 21 Feb 17 under the provisions of AFI 36-2603:

Panel Chair

Member

Member

The following documentary evidence pertaining to AFBCMR Docket Number BC-2016-00105 was considered:

Exhibit A.  DD Form 149, dated 1 Jan 16, w/atchs.

Exhibit B.  Applicant's Master Personnel Records.

Exhibit C.  Memorandum, AFPC Disabilities, dated 18 May 16.

Exhibit D.  Letter, SAF/MRBR, dated 20 Jun 16.

Pursuant to paragraph 1 of AFI 36-2603 (Title 32 Code of Federal Regulations, Part 865.1), it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.