

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2017-02352-2

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

The Board reconsider his request he be authorized a 10 percent increase in retirement pay for extraordinary heroism as evidenced by his award of the Airman's Medal.

RESUME OF THE CASE

The applicant is a retired Air Force senior master sergeant (E-8).

On 17 Jul 18, the Board considered and denied the applicant's request he be authorized a 10 percent increase in retirement pay; finding the applicant had provided insufficient evidence of an error or injustice to justify relief. Specifically, the Board found a preponderance of the evidence did not substantiate the applicant's contentions that his actions rose to the level of "extraordinary heroism" and that additional information, such as witness statements, police/emergency responder reports and/or news articles may also provide support for his claim.

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 E.

On 7 May 24, the applicant requested reconsideration of his request. He contends that two veterans from two veterans' organizations strongly suggested he resubmit his request for reevaluation. In support of his reconsideration request, the applicant submitted the following new evidence: (1) photos of the scene after the plane crash; (2) a police letter stating all their files during that time were washed away in a flood; and (3) a witness statement.

The applicant's complete submission is at Exhibit F.

APPLICABLE AUTHORITY/GUIDANCE

Department of the Air Force Instruction (DAFI) 36-3203, *Service Retirements*, paragraph 8.11. Retired Pay Increase Due to Extraordinary Heroism (Enlisted Only). Active component enlisted members who had deeds of extraordinary heroism may be entitled to receive 10 percent additional retired pay if a member retires under Title 10 United States Code Section 9314 (10 U.S.C. § 9361). For Air Reserve component enlisted members, payments for acts or deeds begin 1 Oct 02, (10 U.S.C. § 12739, *Computation of Retired Pay*, 10 U.S.C. § 12741) although the act or deed may have occurred prior to this date.

8.11.1. Since regulations require extraordinary heroism as the criterion for award of the Medal of Honor, Air Force Cross, or equivalent Army or Navy decorations, these awards provide automatic entitlement to the additional 10 percent retirement pay (not to exceed 75 of the member's active duty basic pay at the time of retirement) for enlisted members. If heroism is involved in the award of any other medal to an enlisted member, the Secretary of the Air Force (SecAF) will determine, coincident to awarding the medal, whether the additional 10 percent retirement pay will be authorized.

8.11.2. Because the law is not restrictive with regard to the types of decorations that may qualify an individual for this increase in retired pay, the SecAF has the authority to evaluate the heroic actions that have earned the Silver Star, Distinguished Flying Cross (noncombat), and the Airman's Medal to determine if extraordinary heroism was involved, which would entitle the recipient to the increase in retired pay.

8.11.3. Since 1969, enlisted members who have been awarded the Silver Star, the Distinguished Flying Cross for heroism in a non-combat action, or the Airman's Medal have been automatically considered for the additional 10 percent retired pay increase. If a member was approved for the additional 10 percent increase in retirement pay, the member's special order approving the decoration will include a statement to that fact. If an enlisted member believes consideration was not made at the time the medal was awarded, the member may ask for a Secretarial decision through the AFBCMR process.

AIR FORCE EVALUATION

SAF/MRBP (Secretary of the Air Force Personnel Council) recommends denying the application. While the applicant correctly points out that he was awarded the Airman's Medal, this alone is not sufficient for the applicant to be awarded the additional 10 percent in retired pay. In the applicant's original case, he argued he did not receive the additional 10 percent in retired pay due to the mishandling of his retirement. However, because the award of the Airman's Medal alone is not sufficient to garner the entitlement to the additional retired pay, the AFBCMR concluded he was not the victim of an error or injustice. After a thorough review of this additional evidence, the AFBCMR's original consideration of his case, and his military personnel records, SAF/MRBP is not convinced there is sufficient evidence to warrant granting the requested relief. First, the presumption of regularity dictates that, absent evidence to the contrary, it should be presumed the applicant's Airman's Medal was thoroughly reviewed when it was awarded almost 50 years ago, and a determination was made that his actions did not constitute extraordinary heroism. However, even if we were to assume for the sake of argument this review was not completed, the additional evidence provided by the applicant is not sufficient to conclude his actions constituted extraordinary heroism. While the applicant's actions are commendable and constituted heroism on his part, garnering him the award of the Airman's Medal, his actions do not rise to the level of extraordinary heroism. In his application, the applicant asks for an explanation of the standard or method used to determine what constitutes extraordinary heroism. The determination of whether an act is heroic or extremely heroic is subjective. The difference between heroism and extraordinary heroism is a matter of degree. One of the factors considered is whether the member made a conscious decision to risk their life (heroism) or did so repeatedly (possibly extraordinary heroism). This is not to say that a single act of a risk of life cannot constitute extraordinary heroism. The SecAF, and Secretaries of all the military departments for that matter, make this determination all the time when deciding whether the actions of a member constitute heroism or extraordinary heroism for the purpose of establishing the entitlement for the additional 10 percent in military retired pay in accordance with the provisions of 10 U.S.C. § 8991. In the Air Force, this determination is made by the Air Force Decorations Board when a member is awarded the Airman's Medal, Distinguished Flying Cross (non-combat), or Silver Star. With this in mind, the applicant's contentions and evidence were thoroughly reviewed; however, the evidence presented is not sufficient to conclude the applicant is the victim of an error or injustice. The applicant has provided no evidence whatsoever that he has been treated unfairly or that he was not given due consideration when this matter was decided in real time almost 50 years ago.

The complete advisory opinion is at Exhibit G.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 1 Apr 25 for comment (Exhibit H) 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, including the applicant's new evidence (post-crash photographs, a police department letter noting the loss of records due to flooding, and a witness statement), the Board remains unconvinced the evidence presented demonstrates an error or injustice. The Board concurs with the rationale and recommendation of SAF/MRBP and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board finds the applicant has not presented sufficient documentation or independent corroboration to demonstrate that his actions met the standard for extraordinary heroism as outlined in 10 U.S.C. § 8991 (now § 9361), and as implemented by DAFI 36-3203. While the applicant's selfless conduct in response to the aircraft crash was indeed heroic and worthy of the Airman's Medal, the available documentation does not show he knowingly and repeatedly placed his own life at risk to an extent that satisfies the statutory and regulatory threshold for extraordinary heroism as determined by longstanding DAF policy. The Board acknowledges the applicant's concern that his case may not have been properly considered at the time of his retirement; however, in the absence of documentary evidence showing procedural error, omission, or misapplication of the standard, the presumption of regularity applies. The record reflects the award was properly made, and the absence of an extraordinary heroism determination at that time is consistent with Air Force policy and practice unless otherwise documented. Therefore, the Board recommends against correcting the applicant's records.

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-2017-02352-2 in Executive Session on 24 Apr 25 and 1 May 25:

, Panel Chair
, Panel Member
, Panel Member

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

Exhibit E: Record of Proceedings, w/ Exhibits A-D, dated 17 Jul 18.
Exhibit F: Application, DD Form 149, w/atchs, dated 23 Apr 24.
Exhibit G: Advisory Opinion, SAF/MRBP, dated 31 Mar 25.
Exhibit H: Notification of Advisory, SAF/MRBC to Applicant, dated 1 Apr 25.

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.

X

Board Operations Manager, AFBCMR