

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02744

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Her official military personnel records amended to reflect a medical discharge.

APPLICANT'S CONTENTIONS

This correction should have been made due to her medical disability not being considered before being discharged. She tried rectifying with her unit but was told she would have to apply to the Air Force Board for Correction of Military Records (AFBCMR) to get this issue resolved.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a currently serving Air Force Reserve (AFRes) staff sergeant (E-5).

On 20 Apr 16, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant entered the AFRes for a period of six years, with a military service obligation of eight years.

According to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant served on active duty from 17 Mar 21 to 11 Oct 21 in support of Operation FREEDOM SENTINEL and served in the Area of Responsibility from 4 May 21 to 8 Sep 21.

On 19 Apr 22, according to Reserve Order XXXXX, dated 11 May 22, the applicant was assigned to the Air Reserve Personnel Center with gaining Personnel Accounting Symbol: S73IFLX5 [Obligated Reserve Section].

On 17 Aug 23, according to a Department of Veterans Affairs (DVA) letter, provided by the applicant, the following decisions were made regarding the applicant's benefits:

- Service connection for menorrhagia (claimed as menstrual issues and Gulf War undiagnosed illness) is granted with an evaluation of 0 percent, effective 23 Mar 23.
- Evaluation of gastroesophageal reflux disease with symptoms of sleep disturbances (also claimed as sleep disturbances, gastrointestinal issues, and Gulf War undiagnosed illness), which is currently 10 percent disabling, is continued.
- Evaluation of acne (claimed as skin conditions and Gulf War undiagnosed illness), which is currently 0 percent disabling, is continued.
- Evaluation of eczema with dermatitis (claimed as skin conditions and Gulf War undiagnosed illness), which is currently 0 percent disabling, is continued.
- A decision on entitlement to compensation for chronic fatigue (also claimed as Gulf War undiagnosed illness) is deferred.
- A decision on entitlement to compensation for muscle and joint pains (also claimed as Gulf War undiagnosed illness) is deferred.

- A decision on entitlement to compensation for rhinitis is deferred.
- The claim for an increased evaluation for unspecified trauma and stressor-related disorder is deferred.

The applicant's combined rating evaluation is 90 percent, effective 17 Apr 23.

On 4 Oct 23, according to a DVA letter, provided by the applicant, the following decisions were made regarding the applicant's benefits:

- Evaluation of Post-Traumatic Stress Disorder (PTSD) (previously rated as unspecified trauma and stressor-related disorder), which is currently 50 percent disabling, is increased to 70 percent, effective 14 Jun 23.
- Service connection for allergic rhinitis is granted with an evaluation of 0 percent, effective 10 Aug 22.
- Service connection for chronic fatigue (also claimed as Gulf War undiagnosed illness) is denied.
- Service connection for muscle and joint pains (also claimed as Gulf War undiagnosed illness) is denied.

The applicant's combined rating evaluation is 90 percent, effective 14 Jun 23.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

AIR FORCE EVALUATION

The AFRBA Psychological Advisor finds insufficient evidence has been presented to support the applicant's request for a medical discharge based on her mental health condition.

A review of the applicant's available records finds no evidence or records the applicant had any unfitting mental health conditions, including PTSD or Unspecified Trauma and Stressor-Related Disorder, that would meet the criteria to be referred to the Medical Evaluation Board (MEB) for a possible medical discharge or disability. There are records the applicant met with her Primary Care Manager (PCM) for complaints of depression and insomnia and was prescribed Atarax for insomnia during her deployment to Qatar in Jul 21. She also endorsed having anxiety, depression, and PTSD symptoms related to her deployment experiences on her Post-Deployment Health Assessment and Separation History and Physical Examination (SHPE) in Sep 21 and reported receiving counseling (two sessions per her DVA treatment notes) on the SHPE. While there is evidence the applicant had a mental health condition and symptoms related to her military service, and briefly received treatment for her difficulties during service, having a mental health condition and receiving mental health treatment do not automatically render a condition unfitting. The applicant's treatment history during service was brief and there are no records to support whether she benefitted or did not benefit from treatment and whether her mental health condition had elevated to unfitting. There is no evidence and records the applicant was placed on a duty limiting condition profile because of her mental health condition. She was never deemed not worldwide qualified or not deployable due to her mental health condition, and there are no statements from her commander that the applicant's mental health condition had impacted her ability to perform her military duties in accordance with her office, grade, rank, or rating. The applicant's PCM specified on her SHPE she had no (or did not require) an MEB and assignment limitation code. Furthermore, there is no In Line of Duty determination performed for the applicant's mental health condition. This determination, in addition to having an unfitting mental health condition, is required for a compensable medical discharge or disability for an AFRes member. The reason for her discharge is not identified in her available military records so there are no records to support her mental health had a direct impact or was a

contributing factor to her discharge from the AFRes. For these reasons, the applicant's request for a medical discharge based on her mental health condition is not supported. There is no error or injustice identified with her discharge from a mental health perspective.

This psychological advisor acknowledges the applicant has received service connection from the DVA for PTSD. For awareness, the military's Disability Evaluation System (DES), established to maintain a fit and vital fighting force, can by law, under Title 10, United States Code (10 USC), only offer compensation for those service-incurred diseases or injuries which specifically rendered a member unfit for continued active 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 post-service progression of disease or injury. To the contrary, the DVA, operating under a different set of laws, 38 USC, is empowered to offer compensation for any medical condition with an established nexus with military service, without regard to its impact upon a member's fitness to serve, the narrative reason for release from service, or the length of time transpired since the date of discharge. The DVA may also conduct periodic reevaluations for the purpose of adjusting the disability rating awards as the level of impairment from a given medical condition may vary [improve or worsen] over the lifetime of the veteran.

Finally, liberal consideration is not applied to the applicant's request for a medical discharge because the updated clarifying guidance, the Vazirani Memorandum, published on 4 Apr 24, clearly states liberal consideration does not apply to fitness determinations, which includes medical discharge, disability, and retirement requests. Therefore, liberal consideration is not applied to the applicant's petition. The updated clarifying guidance also instructed a bifurcated review should be performed when a mental health condition such as PTSD or Traumatic Brain Injury potentially contributed to the circumstances of discharge or dismissal to determine whether an upgrade to the discharge or change to the narrative reason is appropriate. Since the reason for her discharge and character of service are not identified in her available records, this bifurcated review could not be performed.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 22 Aug 24 for comment (Exhibit D) 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 concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale of the AFRBA Psychological Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. There is no evidence the applicant had any unfitting mental health conditions, including PTSD or Unspecified Trauma and Stressor-Related Disorder, that would meet the criteria to be referred to the MEB for a possible medical discharge. Further, no line of duty determination was performed for the applicant's mental health condition and there are no statements from her commander that the applicant's mental health condition had impacted her ability to perform her military duties in accordance with her office, grade, rank, or rating. Liberal consideration was not applied in accordance with the Vazirani memorandum regarding fitness determinations. A bifurcated review was not performed due to the lack of documentation reflecting the applicant's discharge status and characterization of service.

Finally, the military's DES, established to maintain a fit and vital fighting force, can by law, under 10 USC, only offer compensation for those service-incurred diseases or injuries which specifically rendered a member unfit for continued active 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 post-service progression of disease or injury. The DVA, operating under a different set of laws, 38 USC, is empowered to offer compensation for any medical condition with an established nexus with military service, without regard to its impact upon a member's fitness to serve, the narrative reason for release from service, or the length of time transpired since the date of discharge. 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-2023-02744 in Executive Session on 18 Dec 24:

, Panel Chair
, Panel Member
, Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 4 Mar 24.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, AFRBA Psychological Advisor, dated 20 Aug 24.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 22 Aug 24.

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