

## RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00673

XXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

### APPLICANT'S REQUEST

His official military personnel records be amended to reflect his Obsessive-Compulsive Disorder (OCD) is eligible for Combat-Related Special Compensation (CRSC).

### APPLICANT'S CONTENTIONS

This correction should be made because he laid out all the evidence to the CRSC board three times. He sent his mental health doctor's notes and letters stating his OCD manifested from his years-worth of live firing/simulating war. The applicant attached hospital visits of when his OCD was getting too much to handle after all of the live firing he did over and over again. Lastly, he sent buddy letters from people he has been with since Basic Military Training and that he was stationed with to prove his OCD is combat-related. The applicant feels like he is not getting heard and it is really getting to him. He gets that he has to prove this to the CRSC board, but he is not getting any feedback from them. The applicant feels like he is attaching everything to paint a very clear picture for why he deserves this. After the third denial, they referred him to the Air Force Board for Correction of Military Records (AFBCMR).

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a retired Air Force senior airman (E-4).

On 8 Sep 22, according to AF IMT 618, *Medical Board Report*, the applicant was diagnosed with Obstructive Sleep Apnea (OSA); Incurred while entitled to basic pay: Yes; Existed prior to service: No; Permanently aggravated by service: Yes; and was referred to the informal Physical Evaluation Board (IPEB).

On 14 Nov 22, according to AF Form 356, *Findings and Recommended Disposition of USAF Physical Evaluation Board (Informal)*, the applicant was diagnosed with:

- Category I – Unfitting Conditions:

- OSA Status Post Inspire Hypoglossal Nerve Stimulator Implantation; Condition Compensable: Yes; Veterans Administration Schedule for Rating Disabilities (VASRD) Code: 6847; Disability Rating: 50 percent; Condition Combat-Related: No; Disability Incurred in a Combat Zone or During Performance of Duty in Combat-Related Operations: No; Condition is Permanent and Stable: Yes.

The IPEB found the applicant's medical condition prevents him from reasonably performing the duties of his office, grade, rank, or rating, and recommended permanent retirement with a combined compensable percentage of 50 percent.

On 15 Nov 22, according to AF Form 1180, *Action on Physical Evaluation Board Findings and Recommended Disposition*, the applicant agreed with the findings and recommended disposition of the IPEB and waived his rights for any further appeal. The applicant did not request a one-time reconsideration of the Department of Veterans Affairs (DVA) disability rating for the condition found unfitting by the IPEB.

On 23 Nov 22, according to Special Order Number XXXXX, the applicant was relieved from active duty, organization and station of assignment, effective 4 Feb 23. Effective 5 Feb 23, the applicant was permanently disability retired with a compensable percentage for physical disability of 50 percent.

On 4 Feb 23, the applicant was furnished an honorable discharge with Narrative Reason for Separation: Disability, Permanent IDIS, and was credited with five years, seven months, and two days of active service.

On 20 Feb 23, according to a *DVA Rating Decision*, provided by the applicant, he was granted service-connection for OCD with mixed obsessional thoughts and acts (claimed as adjustment disorder, anxiety), with an evaluation of 70 percent, effective 5 Feb 23.

On 22 Sep 23, according to DD Form 2860, *Claim for Combat-Related Special Compensation (CRSC)*, the applicant applied for CRSC for his OCD.

On 18 Oct 23, according to an AFPC/DPFDC [USAF Physical Disability Division] letter, the applicant's request for CRSC was disapproved.

On 1 Nov 23, according to *Air Force CRSC Reconsideration Request*, the applicant applied for reconsideration of his request for CRSC for his OCD.

On 28 Nov 23, according to an AFPC/DPFDC [USAF Physical Disability Division] letter, no additional information or documentation was found to warrant approval of the applicant's request for CRSC for his OCD.

On 23 Jan 24, according to *Air Force CRSC Reconsideration Request*, the applicant re-applied for reconsideration of his request for CRSC for his OCD.

On 15 Feb 24, according to an AFPC/DPFDC [USAF Physical Disability Division] letter, no additional information or documentation was found to warrant approval of CRSC for the applicant's previously disapproved disability.

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

## **APPLICABLE AUTHORITY**

Title 10, United States Code § 1413a (10 USC § 1413a) - *Combat-related special compensation*

(c) *Eligible Retirees*. For purposes of this section, an eligible combat-related disabled uniformed services retiree referred to in subsection (a) is a member of the uniformed services who:

- (1) is entitled to retired pay (other than by reason of section 12731b of this title);
- and
- (2) has a combat-related disability.

(e) *Combat-Related Disability*. In this section, the term “combat-related disability” means a disability that is compensable under the laws administered by the Secretary of Veterans Affairs and that:

- (1) is attributable to an injury for which the member was awarded the Purple Heart; or
- (2) was incurred (as determined under criteria prescribed by the Secretary of Defense):
  - (A) as a direct result of armed conflict;
  - (B) while engaged in hazardous service;
  - (C) in the performance of duty under conditions simulating war; or
  - (D) through an instrumentality of war.

Department of Defense (DoD) Financial Management Regulation (FMR), Volume 7B, Chapter 63 – *Combat-Related Special Compensation (CRSC)*

**5.2 Other Combat-Related Disabilities.** A combat-related disability is a disability with an assigned medical diagnosis code from the VASRD and which a Military Department has determined is combat-related based on the following criteria:

- 5.2.1. The disability was incurred as a direct result of armed conflict,
- 5.2.2. The disability was incurred while engaged in hazardous service,
- 5.2.3. The disability was incurred in the performance of duty under conditions simulating war, or
- 5.2.4. The disability was incurred through an instrumentality of war.

## **AIR FORCE EVALUATION**

AFPC/DPFDC recommends denying the application. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice.

The applicant is requesting reconsideration of his disapproved claim for CRSC. The purpose of his request is to qualify for benefits authorized under the CRSC program in accordance with 10 USC § 1413a and DoD FMR, Volume 7B, Chapter 6<sup>1</sup>. Specifically, he is requesting his OCD be reevaluated under CRSC.

The applicant submitted three claims from Sep 23 – Jan 24. His claims were disapproved as non-combat related. The applicant contends his OCD manifested from many years of live firing and simulating war. His claims and documentation contained no definitive, documented evidence to confirm his disability was the direct result of a combat-related event. The medical documentation submitted by the applicant does support that he incurred this injury in-service; however, the documents do not describe any combat-related event (nexus) that caused it. To be approved for CRSC, clear documentation must be provided to indicate a disability occurred or was caused by a specific combat-related factor rather than from routine causes or his physical make-up (i.e., in-service medical documentation from the time of the event/injury).

The applicant’s claims, and the information he provided in this application to the AFBCMR, provided no new evidence that supports his claims for CRSC compensation. The CRSC board acknowledges the applicant is 100 percent service-connected with the DVA, and he incurred his disabilities during his military career; however, that is not sufficient by itself to support a combat-related determination.

The complete advisory opinion is at Exhibit C.

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<sup>1</sup> Typographical error; correct reference is Department of Defense Financial Management Regulation, Volume 7B, Chapter 63.

## **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 20 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 and recommendation of AFPC/DPFDC and finds a preponderance of the evidence does not substantiate the applicant's contentions. While the applicant provided sufficient evidence for the DVA to grant service-connection for his OCD, he has not provided the evidence necessary to create a nexus between his service-connected disability and the criteria required for combat-relation. Without this nexus, the applicant's disability does not meet the CRSC eligibility requirements outlined in 10 USC § 1413a and DoD FMR Volume 7B, Chapter 63. 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-2024-00673 in Executive Session on 20 Nov 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 15 Feb 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPFDC, dated 11 Jun 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 20 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**

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Board Operations Manager, AFBCMR