

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00983

XXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His request for reconsideration of Combat-Related Special Compensation (CRSC) be approved.

APPLICANT'S CONTENTIONS

All of the issues were caused due to combat-related flights and/or during hazardous service during flight as a crewmember (Loadmaster). Additionally, when first re-submitting for reconsideration with additional evidence, the additional information was not looked at. Post-Traumatic Stress Disorder (PTSD) was the result of multiple combat tours as an aircrew member in Iraq, Afghanistan, and Syria. The applicant also spent several years as a Modular Airborne Fire Fighter subjecting his body to repeated extreme conditions.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired [State] Air National Guard chief master sergeant (E-9).

On 10 May 21, according to AF Form 348, *Line of Duty Determination*, the applicant was diagnosed with "other non-traumatic subarachnoid hemorrhage/intracranial hemorrhage," and on 7 Oct 21, the condition was determined to be in the line of duty (ILOD).

On 18 Jan 22, according to DAF Form 618, *Medical Board Report*, the applicant was diagnosed with Non-Traumatic Intracerebral Hemorrhage, Unspecified Acute Embolism and Thrombosis of Unspecified Deep Veins of Unspecified Extremity; Incurred while entitled to basic pay: Yes; Existed Prior to Service: No; Permanently aggravated by service: Yes; and referred to the Informal Physical Evaluation Board (IPEB).

On 10 May 22, according to AF Form 469, *Duty Limiting Condition Report*, the applicant was placed on duty and mobility restrictions with code 37 [Medical defect/condition requires Medical Evaluation Board (MEB) or Physical Evaluation Board (PEB) in accordance with Air Force Instruction (AFI) 41-210, *TRICARE Operations and Patient Administration Functions*].

On 25 Jul 22, according to AF Form 356, *Findings and Recommended Disposition of USAF Physical Evaluation Board (Informal)*, the applicant was found unfit because of physical disability and diagnosed with:

- Category I – Unfitting Conditions:

- Intracerebral Hemorrhage (with Residual Memory Loss, Bilateral Vision Loss, and Right-sided Upper/Lower Extremity Hemiparesis) – Department of Veterans Affairs (DVA) rated as Weakness of Right Upper Extremity, Hemiplegia S/P Intracerebral Hemorrhage, with Right Shoulder Strain (Dominant); ILOD: Yes; Veterans Administration Schedule for Rating

Disabilities (VASRD) Code: 8513; Disability Rating: 70 percent; Combat-Related: No; Incurred in Combat Zone or Combat-Related Operations: No

- Right Lower Extremity Deep Vein Thrombosis (DVT) - DVA rated as Right Leg Post-Phlebitic Syndrome; ILOD: Yes; VASRD Code: 7121; Disability Rating: 10 percent; Combat-Related: No; Incurred in Combat Zone or Combat-Related Operations: No

- Left Lower Extremity DVT - DVA rated as Left Leg Post-Phlebitic Syndrome; ILOD: Yes; VASRD Code: 7121; Disability Rating: 10 percent; Combat-Related: No; Incurred in Combat Zone or Combat-Related Operations: No

- Intracerebral Hemorrhage (with Residual Memory Loss, Bilateral Vision Loss, and Right-sided Upper/Lower Extremity Hemiparesis) – DVA rated as Right Lower Extremity Sciatic Nerve Hemiplegia, Weakness S/P Intracerebral Hemorrhage; ILOD: Yes; VASRD Code: 8520; Disability Rating: 40 percent; Combat-Related: No; Incurred in Combat Zone or Combat-Related Operations: No

- Intracerebral Hemorrhage (with Residual Memory Loss, Bilateral Vision Loss, and Right-sided Upper/Lower Extremity Hemiparesis) – DVA rated as Homonymous Hemianopsia Right Side; ILOD: Yes; VASRD Code: 6046-6080; Disability Rating: 30 percent; Combat-Related: No; Incurred in Combat Zone or Combat-Related Operations: No

- Intracerebral Hemorrhage (with Residual Memory Loss, Bilateral Vision Loss, and Right-sided Upper/Lower Extremity Hemiparesis) – DVA rated as Right Lower Extremity Femoral Nerve Hemiplegia, Weakness S/P Intracerebral Hemorrhage; ILOD: Yes; VASRD Code: 8526; Disability Rating: 20 percent; Combat-Related: No; Incurred in Combat Zone or Combat-Related Operations: No

- Intracerebral Hemorrhage (with Residual Memory Loss, Bilateral Vision Loss, and Right-sided Upper/Lower Extremity Hemiparesis) – DVA rated as Right Lower Extremity Obturator Nerve Hemiplegia, Weakness S/P Intracerebral Hemorrhage; ILOD: Yes; VASRD Code: 8528; Disability Rating: 0 percent; Combat-Related: No; Incurred in Combat Zone or Combat-Related Operations: No

- Intracerebral Hemorrhage (with Residual Memory Loss, Bilateral Vision Loss, and Right-sided Upper/Lower Extremity Hemiparesis) – DVA rated as Right Lower Extremity External Cutaneous Nerve of Thigh Hemiplegia, Weakness S/P Intracerebral Hemorrhage; ILOD: Yes; VASRD Code: 8529; Disability Rating: 0 percent; Combat-Related: No; Incurred in Combat Zone or Combat-Related Operations: No

- Intracerebral Hemorrhage (with Residual Memory Loss, Bilateral Vision Loss, and Right-sided Upper/Lower Extremity Hemiparesis) – DVA rated as Right Lower Extremity Illio-Inguinal Nerve Hemiplegia, Weakness S/P Intracerebral Hemorrhage; ILOD: Yes; VASRD Code: 8530; Disability Rating: 0 percent; Combat-Related: No; Incurred in Combat Zone or Combat-Related Operations: No

The IPEB recommended permanent retirement with a combined compensable percentage of 90 percent.

On 25 Jul 22, according to AF Form 1180, *Action on Informal Physical Evaluation Board Findings and Recommended Disposition*, the applicant agreed with the findings and recommended disposition of the IPEB and did not request a one-time reconsideration of the DVA disability ratings for the conditions found unfitting by the IPEB.

On 29 Jul 22, according to an AFPC/DPFD memorandum, Subject: Physical Evaluation – [applicant], the Secretary of the Air Force directed the applicant be permanently retired under the provisions of Title 10, United States Code § 1201 (10 USC § 1201), with a compensable percentage for physical disability of 90 percent.

On 27 Oct 22, according to Special Order Number XXXXX, dated 9 Aug 22, the applicant was relieved from active duty, organization and station of assignment. Effective 28 Oct 22, he was permanently disability retired with compensable percentage for physical disability of 90 percent.

On 24 Mar 23, according to DD Form 2860, *Claim for Combat-Related Special Compensation (CRSC)*, the applicant requested a combat-relatedness determination for PTSD, weakness right upper extremity, and hemiplegia intracerebral hemorrhage, etc., affecting brain, vision, right side.

On 18 Apr 23, according to an AFPC/DPFDC [Section Chief, CRSC] letter, Subject: Partial Approval of CRSC in the Case of [applicant], CRSC was approved for Tinnitus, [D]VA Code: 6260, [D]VA percent: 10, effective 1 Nov 22. The following conditions were not approved for CRSC:

- Weakness of Right Upper Extremity, Hemiplegia S/P Intracerebral Hemorrhage, with Right Shoulder Strain
- PTSD, Depressive Disorder Due to Another Medical Condition
- Right Lower Extremity Sciatic and Femoral Nerve Hemiplegia, Weakness S/P Intracerebral Hemorrhage
- Homonymous Hemianopsia Right Side
- Right and Left Leg Post-Phlebitic Syndrome
- Bilateral Pinguecula
- Scar, S/P Tracheostomy
- Right Lower Extremity Obturator Nerve Hemiplegia, Weakness S/P Intracerebral Hemorrhage
- Right Lower Extremity External Cutaneous Nerve of Thigh Hemiplegia, Weakness S/P Intracerebral Hemorrhage
- Right Lower Extremity Illio-Inguinal Nerve Hemiplegia, Weakness, S/P Intracerebral Hemorrhage

On 10 May 23, according to an *Air Force CRSC Reconsideration Request*, the applicant believed his PTSD disability was combat-related and requested reconsideration.

On 25 May 23, according to an AFPC/DPFDC [Section Chief, CRSC] letter, upon reconsideration, the applicant's request for CRSC was denied.

On 29 Feb 24, according to DD Form 2860, the applicant requested a combat-relatedness determination for PTSD, weakness upper right side, weakness lower right side, hemianopsia, hemiplegia, and DVT, affecting vision, brain, arms, and legs.

On 13 Mar 24, according to an AFPC/DPFD [Branch Chief, Disability Transitions] letter, upon reconsideration, the applicant's request for CRSC was denied and he was referred to the Air Force Board for Correction of Military Records (AFBCMR).

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

APPLICABLE AUTHORITY/GUIDANCE

10 USC § 1413a. *Combat-related special compensation.*

(a) *Authority.* The Secretary concerned shall pay to each eligible combat-related disabled uniformed services retiree who elects benefits under this section a monthly amount for the combat-related disability of the retiree determined under subsection (b).

(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:

- Heart; or,
Defense)
- (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) 7000.14-R, *Financial Management Regulation*, Volume 7B, Chapter 63, dated Nov 19, 6.0 *Determination of Combat-Relatedness* (6306):

6.1 *Direct Result of Armed Conflict* (630601)

6.1.1. The disability is a disease or injury incurred in the line of duty as a direct result of armed conflict. To support a combat-related determination, it is not sufficient to only state the fact that a member incurred the disability during a period of war, in an area of armed conflict, or while participating in combat operations. There must be a definite causal relationship between the armed conflict and the resulting disability.

6.1.2. Armed conflict includes a war, expedition, occupation of an area or territory, battle, skirmish, raid, invasion, rebellion, insurrection, guerilla action, riot, or any other action in which servicemembers are engaged with a hostile or belligerent nation, faction, force, or with terrorists.

6.2 *While Engaged in Hazardous Service* (630602)

Hazardous service is service that includes, but is not limited to, aerial flight, parachute duty, demolition duty, experimental stress duty, and diving duty. A finding that a disability is the result of hazardous service requires that the injury or disease be the direct result of actions taken in the performance of such service. Travel to and from such service, or actions incidental to a normal duty status not considered hazardous, are not included.

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. Specifically, he is requesting the following disabilities be re-evaluated under CRSC:

- PTSD, depressive to another medical condition
- Weakness of the right upper extremity and shoulder strain, weakness s/p intracerebral hemorrhage
- Right lower extremity sciatic and femoral nerve hemiplegia, weakness s/p intracerebral hemorrhage
- Homonymous hemianopsia right side
- Right/left leg post-phlebotic syndrome
- Bilateral pinguecula
- Scar, s/p tracheostomy
- Right lower extremity obturator nerve hemiplegia, weakness s/p intracerebral hemorrhage
- Right lower extremity external cutaneous nerve of thigh hemiplegia, weakness s/p intracerebral hemorrhage
- Right lower extremity ilio-inguinal nerve hemiplegia, weakness s/p intracerebral hemorrhage

The applicant submitted three claims for CRSC. His tinnitus was approved at 10 percent. The remaining disabilities were disapproved as not combat-related. The applicant contended his disabilities were caused by prolonged, sustained aerial flights while firefighting wildlands and lightning strikes/multiple mortar attacks during his deployments to Iraq and Afghanistan. Documentation submitted by the applicant in his claims for CRSC and to the AFBCMR have been reviewed and there was no evidence provided, such as in-service medical records from the time of the injuries that confirm both the injuries and how they occurred, to confirm the applicant's disabilities were the direct result (nexus) of a combat-related event.

The fact that a member incurred the disability during a period of war; while serving in an area of armed conflict; and/or while participating in combat operations is not sufficient by itself to support a combat-related determination in accordance with 10 USC § 1413a and DoD Financial Management Regulation, Volume 7B, Chapter 6¹. When making combat-related determinations, with regard to Armed Conflict, Hazardous Service, Simulation of War or an Instrument of War, the CRSC board looks for definite, documented, causal relationship between the armed conflict and the resulting disability.

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 27 Sep 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. There was no evidence presented which confirms both the injuries and how they occurred to confirm they were the direct result of a combat-related event in accordance with 10 USC § 1413a and DoD Financial Management Regulation, Volume 7B, Chapter 63. Further, according to the MEB Narrative Summary, the applicant tested positive for Factor V Leiden and Prothrombin mutations, a genetic disorder which caused the DVT, resulting in the intracerebral hemorrhage. 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.

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

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-2024-00983 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 18 Mar 24.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, AFPC/DPFDC, dated 10 Jul 24.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 27 Sep 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