

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-02081

XXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His official military personnel records amended to reflect his discharge was combat-related.

APPLICANT'S CONTENTIONS

The psychotic break that sent the applicant to an Air Force hospital did not just happen from nowhere. He was basically kidnapped from his barracks dorm room, drugged, and then brain washed or "mind controlled" to cause the outcome of events leading to a mental break down at Work-Pr... Air Base (AB), Greenland. The applicant's mind was too scared, and he even had a hard time believing it happened.

The applicant has been complaining of this for approximately 37 years. He will never believe that anything else happened. The applicant has names, dates, and anything needed to investigate what and why this happened.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force Reserve first lieutenant (O-2).

On 4 Oct 88, according to AF Form 618, *Medical Board Report*, the applicant was diagnosed with Psychotic Disorder, not otherwise specified (NOS), 298.90, acute, severe, and in remission at this time on Navane 2 mg po tid; Incurred while entitled to basic pay: Yes; Existed prior to service: No; Permanently aggravated by service: No; Referred to the informal Physical Evaluation Board (IPEB).

On 20 Oct 88, 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 the following:

- Psychotic Disorder, unspecified with definite impairment of social and industrial adaptability; Incurred while entitled to received basic pay: Yes; Line of Duty: Yes; Disability Rating: 30 percent; Veterans Administration (VA) Diagnostic Code: 9210; Disability was the direct result of armed conflict or was caused by an instrumentality of war and incurred in line of duty during a period of war: No; Disability was the direct result of a combat-related injury: No.

The IPEB recommended placement on the Temporary Disability Retirement List (TDRL) with a compensable percentage of 30 percent.

On 26 Oct 88, according to AF Form 1180, *Action on Physical Evaluation Board Findings and Recommended Disposition*, the applicant did not agree with the findings and recommended disposition of the PEB informal hearing and demanded a formal hearing of the case.

On 10 Nov 88, according to AF Form 356, *Findings and Recommended Disposition of USAF Physical Evaluation Board (Formal)*, the applicant was found unfit because of physical disability and diagnosed with the following:

- Psychotic Disorder, unspecified with definite impairment of social and industrial adaptability; Incurred while entitled to received basic pay: Yes; Line of Duty: Yes; Disability Rating: 30 percent; VA Diagnostic Code: 9210; Disability was the direct result of armed conflict or was caused by an instrumentality of war and incurred in line of duty during a period of war: No; Disability was the direct result of a combat-related injury: No.

The formal PEB (FPEB) recommended placement on the TDRL with a compensable percentage of 30 percent.

On 10 Nov 88, according to AF Form 1180, the applicant did not agree with the findings and recommended disposition of the PEB formal hearing. He did desire to submit a rebuttal.

On 2 Dec 88, according to an applicant letter, he no longer wished to submit a rebuttal to the FPEB findings and chose to accept the recommendations of the FPEB.

On 20 Dec 88, according to Special Order Number XXXXX, effective 9 Jan 89, the applicant was relieved from active duty, organization and station of assignment. Effective 10 Jan 89, he was placed on the TDRL with a compensable percentage for physical disability of 30 percent. Disability received in line of duty as a direct result of armed conflict or caused by an instrumentality of war and incurred in line of duty during a period of war: No; Disability was the direct result of a combat-related injury: No.

On 29 Aug 91, according to AF Form 356, *Findings and Recommended Disposition of USAF Physical Evaluation Board (TDRL Reevaluation)*, the applicant was found unfit because of physical disability and diagnosed with the following:

- Psychotic Disorder, NOS, in remission. Definite impairment of social and industrial adaptability; Incurred while entitled to received basic pay: Yes; Line of Duty: Yes; Disability Rating: 30 percent; VA Diagnostic Code: 9210; Disability was the direct result of armed conflict or was caused by an instrumentality of war and incurred in line of duty during a period of war: No; Disability was the direct result of a combat-related injury: No.

The PEB recommended permanent retirement with a compensable percentage of 30 percent.

On 24 Sep 91, according to an AFMPC/DPMADS2 letter, Subject: Removal from the Temporary Disability Retirement List (TDRL) and Permanent Retirement, the Office of the Secretary of the Air Force directed the applicant's removal from the TDRL and permanent retirement with a compensable disability rating of 30 percent, effective 4 Oct 91.

On 14 Mar 24, according to a Department of Veterans Affairs (DVA) summary of benefits letter, provided by the applicant, he was awarded a combined service-connected evaluation of 100 percent and is considered to be totally and permanently disabled due to his service-connected disabilities.

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

AIR FORCE EVALUATION

AFPC/DPFDD recommends denying the application. Based on the documentation provided by the applicant and analysis of the facts, there is no indication an error or injustice occurred at the time the PEB processed his disability case. Although the applicant states he has evidence to support this claim, he provided no such evidence as part of this Air Force Board for Correction of Military Records (AFBCMR) submission. There is no corroborating medical evidence or witness accounts the applicant was directly involved in a combat-related event which contributed to his unfitting condition.

Under Title 10, United States Code (10 USC), the PEB must determine if a member's condition(s) renders them unfit for continued military service relating to their office, grade, rank, or rating. Additionally, in accordance with Department of Defense Instruction (DoDI) 1332.18, *Disability Evaluation System*, Appendix 5 to Enclosure 3, the PEB renders a final decision on whether an injury or disease that makes the service member unfit or that contributes to unfitness was incurred in combat with an enemy of the United States, was the result of armed conflict, or was caused by an instrumentality of war during war. A disability is considered combat-related if it makes the service member unfit or contributes to unfitness and the preponderance of evidence shows it was incurred under any of the following circumstances:

(1) *As a Direct Result of Armed Conflict.* Injury or disability was incurred in combat with an enemy of the United States. To qualify under this rule, a service member must be engaged with members of opposing armed forces and forces are in close enough proximity to potentially inflict physical harm on one another. Furthermore, to be "engaged with" indicates each party has the potential to cause physical harm to the other; it is reciprocal.

(2) *While Engaged in Hazardous Service.* Such service includes, but is not limited to, aerial flight duty, parachute duty, demolition duty, experimental stress duty, and diving duty.

(3) *Under Conditions Simulating War.* In general, this covers disabilities resulting from military training, such as war games, practice alerts, tactical exercises, airborne operations, and leadership reaction courses; grenade and live fire weapons practice; bayonet training; hand-to-hand combat training; rappelling; and negotiation of combat confidence and obstacle courses. It does not include physical training activities, such as calisthenics and jogging or formation running and supervised sports.

(4) *Caused by an Instrumentality of War.* Occurrence during a period of war is not a requirement to qualify. If the disability was incurred during any period of service as a result of wounds caused by a military weapon, accidents involving a military combat vehicle, injury or sickness caused by fumes, gases, or explosion of military ordnance, vehicles, or material, the criteria are met. However, there must be a direct causal relationship between the instrumentality of war and the disability. For example, an injury resulting from a service member falling on the deck of a ship while participating in a sports activity would not normally be considered an injury caused by an instrumentality of war (the ship) since the sports activity and not the ship caused the fall. The exception occurs if the operation of the ship caused the fall.

On 4 Oct 88, a Medical Evaluation Board was held which found the applicant potentially unfitting for Psychotic Disorder, NOS. The accompanying Narrative Summary indicates he initially sought mental health treatment in Aug 88. It was determined the symptoms initially manifested approximately one and a half years prior while the applicant was assigned to Work-Pr... AB, Greenland. During the course of treatment, the applicant made similar unsubstantiated claims as those provided in this AFBCMR submission.

On 10 Nov 88, the FPEB found the applicant unfit for Psychotic Disorder, unspecified with definite impairment of social and industrial adaptability, and recommended placement on the TDRL with a 30 percent disability rating. The FPEB determined this condition was not combat-related as defined by DoDI 1332.18, based on the criteria listed above.

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 17 Dec 24 for comment (Exhibit D) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed. The Board notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by 10 USC § 1552 and Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. The Board does not find it in the interest of justice to waive the three-year filing requirement and finds the application untimely.

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/DPFDD and finds a preponderance of the evidence does not substantiate the applicant's contentions. There is no evidence the applicant's unfitting condition met the requirements for combat-relation in accordance with DoDI 1332.18. While the applicant provided evidence the DVA granted service-connection for his disability, he has not provided the evidence necessary to create a nexus between his service-connected disability and the criteria required for combat-relation. Therefore, the board recommends against correcting the applicant's records.

4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; 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 DAFI 36-2603, paragraph 2.1, considered Docket Number BC-2024-02081 in Executive Session on 19 Mar 25:

, 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 21 May 24.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory Opinion, AFPC/DPFDD, w/atchs, dated 16 Dec 24.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 17 Dec 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