



**CUI//SP-MIL/SP-PRVCY**

**UNITED STATES AIR FORCE  
BOARD FOR CORRECTION OF MILITARY RECORDS**

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2018-02258

*Work-Product*

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

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**APPLICANT'S REQUEST**

His record be corrected to show award of the Purple Heart (PH) Medal

**APPLICANT'S CONTENTIONS**

In 2011, he was injured from a terrorist attack blast and deals with issues daily from the traumatic brain injury (TBI), including ear pain and severe migraines. He feels he meets the criteria for a PH Medal since he was injured in a terrorist blast, was treated by medical personnel and has documented TBI caused by the blast. The medical staff at the time failed to correctly document his symptoms. However, in 2018 he was awarded a TBI rating from the Department of Veteran's Affairs (DVA) for the terrorist attack.

In support of his application, the applicant submits copies of service and DVA medical information, personal statement, witness statement, and a newspaper article.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a retired Air Force technical sergeant (E-6).

On 2 Dec 14, according to AF Form 356, *Findings and Recommended Disposition of USAF Informal Physical Evaluation Board (IPEB)*, the IPEB determined the applicant was unfit for military service and recommended he be placed on the temporary disability retired list (TDRL) with a disability rating of 50 percent for PTSD (Combat Related).

On 29 Jan 15, 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 did not request a one-time reconsideration by the Physical Evaluation Board.

On 30 Jan 15, according to Special Order *Work-Product*, dated 7 Jan 15, the applicant was placed on the TDRL in the grade of technical sergeant with a compensable percentage for physical disability of 50 percent.

On 29 Jan 16, according to AF Form 356, the IPEB determined the applicant was unfit for military service and recommended permanent retirement with a disability rating of 30 percent for PTSD (Combat Related).

On 2 Apr 16, the applicant concurred with the recommended findings of the IPEB.

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On 17 May 16, according to Special Order Work-Product, 27 Apr 16, the applicant was removed from the TDRL and permanently retired in the grade of technical sergeant with compensable percentage for physical disability of 30 percent. In addition, "Disability was the direct result of a combat related injury as defined in 26 USC 104: Yes."

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

**AIR FORCE EVALUATION**

AFPC/DP3SP recommends denying the applicant's request for award of the PH Medal. According to Air Force Manual (AFMAN) 36-2806, *Awards and Memorialization Program*, paragraph A2.10, the medal was established by General George Washington on 7 Aug 82. It was reestablished by War Department General Order No. 3, 1932, and is currently awarded pursuant to EO 11016, 25 Apr 62, subject to the provisions in 10 USC § 1127, 1129, 1129A, and 1131; PL 104-106; DoD Instruction (DoDI) 1348.33, *DoD Military Decorations and Awards Program*; and Volume 3 of DoD Manual (DoDM) 1348.33, *Manual of Military Decorations and Awards: DoD Joint Decorations and Awards*, 1348.33. The medal is awarded to any Service member who is killed or wounded as a result of enemy action. The wounds received must have required treatment by a medical officer. The Purple Heart Review Board (PHRB) convened and denied the applicant's request for award of the PH finding insufficient specific documentation. Furthermore, the board was unable to conclude, based on the medical documentation presented, the injury meets the established criteria defined by Title 10 U.S.C., DoDM 1348.33 and AFMAN 36-2806. Based on the documentation provided, the request does not meet the established eligibility criteria in Title 10 U.S.C., DoDM 1348.33, and AFMAN 36-2806. To grant relief would be contrary to the criteria established.

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 2 Nov 21 for comment (Exhibit D), but has received no response.

**FINDINGS AND CONCLUSION**

1. The application was not 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/DP3SP and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence. The Board does not find it in the interest of justice to waive the three-year filing requirement. Therefore, the Board finds the application untimely and recommends against correcting the applicant's records.

**RECOMMENDATION**




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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 Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2018-02258 in Executive Session on 13 Jul 22:


-  *Work-Product*, Panel Chair
-  *Work-Product*, Panel Member
-  *Work-Product*, Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 25 Apr 18.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP3SP, dated 25 Sep 21.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 2 Nov 21.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

3/20/2023

 *Work-Product*

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Board Operations Manager, AFBCMR  
Signed by: USAF