



CUI//SP-MIL/SP-PRVCY

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

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2018-02280-2

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

The Board reconsider his request to have his medical separation reevaluated and his diagnosis removed so he can be credited with a 20-year regular retirement or be allowed to retire under the Temporary Early Retirement Act (TERA) program and be awarded appropriate retirement privileges and pay.

RESUME OF THE CASE

The applicant is a former Air Force captain (O-3) who was medically separated with severance pay.

On 4 Dec 18, the Board considered and denied his request to change his medical separation to a TERA program retirement. The Board concurred with the rationale and recommendation of AFPC/DPFDD and found the applicant had provided insufficient evidence of an error or injustice to justify relief. Specifically, TERA was not being offered at the time the applicant processed through the medical board; therefore, he was not eligible to apply. Furthermore, the Board found the prior request was not timely submitted.

For an accounting of the applicant's original request and the rationale of the earlier decision, see the AFBCMR Letter and Record of Proceedings at Exhibit E.

On 29 Dec 21, the applicant requested reconsideration of his request to have his medical separation reevaluated and his diagnosis removed so he can be credited with a 20-year regular retirement or be allowed to retire under the TERA program. He contends he was eligible to retire under the TERA program at the time of his medical separation when he was wrongfully given a diagnosis of Bipolar disorder. No consideration was given for Traumatic Brain Injury (TBI) or Post-Traumatic Stress Disorder (PTSD) despite evidence to the contrary as both cause similar symptoms to Bipolar disorder. After months of treatment for depression which was in remission, his diagnosis was changed to Bipolar based upon a family history, his irritability, and his response to Lamictal. Multiple providers then and since feel the diagnosis is Dysthymic disorder (depression) and not Bipolar disorder since he shows no symptoms specifically of manic or hypomanic episodes. If he would have been properly diagnosed with TBI or PTSD, he would have received

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a more favorable consideration for fitness for duty. His duty performance was never impacted and his commander supported him being retained in the service. The Department of Veterans Affairs (DVA) and the Physical Evaluation Board (PEB) both rate him as zero percent disabled which equates to no impairment.

In support of his reconsideration request, the applicant submitted the following new evidence: (1) a personal statement outlining his case; (2) his commander's recommendation to the PEB; (3) his DVA Compensation and Pension Examination (C&P exam); (4) Psychiatry consult notes; (5) an article on Unipolar major depression and Post-concussion syndrome; and (6) excerpts from his medical records to support his claim.

The applicant's complete submission is at Exhibit F.

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 of disability processing. There is no indication the applicant's mental health providers nor the Medical Evaluation Board (MEB) considered PTSD or TBI as severe enough to be considered potentially unfitting for continued service. As part of his application, he submitted a clinical note dated 26 Oct 12 which documents a post-deployment health assessment which he seems to use to substantiate that PTSD should have been considered unfitting instead of Bipolar II. However, it is noted that while there was a positive screening for PTSD and depression, the provider suggested a more thorough PTSD evaluation, however, the provider also noted "He states he is not interested at this time. He is continuing to follow-up with mental health for depression and insomnia." Additionally, there is no record of a DVA C&P exam being conducted for PTSD at the time of the Integrated Disability Evaluation System (IDES) processing nor a rating being assigned for this condition. The applicant did provide a C&P exam, dated 10 Jun 13, which is also contained in the PEB case file, to support his claim for TBI. However, it is noted that he only suffered a mild concussion in 1990 (23 years prior while serving in the U.S. Army) with no long-term residual side effects. Additionally, the C&P exam indicates that the condition did not interfere with work; instrumental activities of daily living; or work, family or other close relationships. Although the DVA service-connected TBI, they assigned a zero percent disability rating due to a lack of impairment. Therefore, these documents would substantiate the MEB's decision to not consider these conditions potentially unfitting for military service. Furthermore, on 13 Jun 13, the applicant agreed with the MEB results and did not request an impartial review or submit a rebuttal to also find PTSD or TBI potentially unfitting.

Regardless of a diagnosis of Bipolar Disorder Type I or Bipolar Disorder Type II the applicant was diagnosed, treated, and evaluated for a bipolar disorder by both the Air Force and the DVA mental health professionals over an extended period of time. This condition interfered with his ability to perform his assigned duties and rendered him ineligible to deploy which is considered unfitting for continued military service. At the time of the Disability Evaluation System (DES) processing, he failed to resubmit a Limited Assignment Status (LAS) application which, if approved, could have potentially allowed him to remain on active duty until he reached retirement eligibility. On his date of separation, he did not have the required active duty service to qualify

for a retirement whether it was for disability or regular. Furthermore, after consultation with HQ AFPC/DP3SA, Military Retirement Policy and Procedures, TERA was being offered in 2014; however, it was only available to members in certain overage Air Force Specialty Codes and members undergoing DES processing were ineligible to apply.

Per AFI 36-3212, *Physical Evaluation for Retention, Retirement, and Separation*, dated 2 Feb 2006 (in effect at time of his disability discharge); paragraph 1.1, the purpose of the DES is to maintain a fit and vital force, disability law allows the Secretary of the Air Force (SECAF) to remove from active duty those who can no longer perform the duties of their office, grade, rank or rating and ensure fair compensation to members whose military careers are cut short due to a service-incurred or service-aggravated physical disability. Additionally, paragraph 1.6 states the Air Force disability system will not retain, retire, or discharge a member for disability solely to increase Air Force retirement or discharge benefits.

The complete advisory opinion is at Exhibit G.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 11 Oct 22 for comment (Exhibit H), 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 remains unconvinced the evidence presented demonstrates 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. Specifically, the Board finds no error or injustice occurred at the time of disability processing nor did they find his PTSD or TBI severe enough to be considered potentially unfitting for continued service. Additionally, the Board does not find the applicant's contention or evidence presented, showing his bipolar diagnosis was incorrect and he should be given a 20-year retirement, compelling enough to warrant relief. They find he was properly diagnosed with bipolar disorder which interfered with his ability to perform his assigned duties and rendered him ineligible to deploy which is considered unfitting for continued military service. Furthermore, as stated in his previous case, the applicant was not eligible for the TERA program at the time of his discharge. 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 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 Air Force Instruction D(AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.5, considered Docket Number BC-2018-02280-2 in Executive Session on 26 Oct 22 and 12 Nov 22:


 Panel Chair
Work-Product
 Panel Member
Work-Product Panel Member

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

- Exhibit E: Record of Proceedings, w/ Exhibits A-D, dated 4 Dec 18.
- Exhibit F: Application, DD Form 149, w/atchs, dated 29 Dec 21.
- Exhibit G: Advisory Opinion, AFPC/DPFDD, w/ atchs, dated 11 Oct 22.
- Exhibit H: Notification of Advisory, SAF/MRBC to Applicant, dated 11 Oct 22.

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.

5/25/2023


Work-Product

Board Operations Manager, AFBCMR
Signed by: USAF