

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2020-01080

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

The Board reconsider his request, amended to read:

1. His release date from active duty be changed to 4 Mar 18.
2. The narrative reason for separation on his NGB Form 22, *Report of Separation and Record of Service*, be corrected to show a medical related discharge versus "discharge in the interest of national security."
3. Recoupment of his enlistment bonus be waived.

RESUME OF THE CASE

The applicant is an honorably discharged Air Force, airman first class (E-3).

On 22 Nov 20, the Board considered and denied his request to change his release date from active duty to 21 Nov 18, that he was medically discharged, and waive recoupment of his enlistment bonus finding the applicant had provided insufficient evidence of an error or injustice to justify relief. The Board concurred with the recommendation and rationale of NGB/A1PP in that there was no evidence the applicant performed any Air National Guard duties after 29 Aug 17, nor did he process through the Disability Evaluation System (DES), and his separation did not meet the criteria on which recoupment of his bonus would not be sought.

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 19 Mar 21, the applicant requested reconsideration of his request to change his release date from active duty to 4 Mar 18, his record be corrected to show service-connected (medical) and waive recoupment of his enlistment bonus. He contends the medical group doctor supports his injury clearly occurred while on duty. Additionally, the applicant contends his leave and earning statement shows proof of working on 4 Mar 18. In support of his reconsideration request, the applicant submitted the following new evidence: (1) A letter from the medical group commander, dated 7 Feb 21; (2) Internal Revenue Service (IRS) wage and income transcripts for 2016-2018, dated 3 May 21, (3) Department of Veterans Affairs (DVA) claim and decisional letter, dated 28 Aug 20, (4) U.S. Department of the Treasury notification of referred debt collection, dated 27 Mar 19, (5) Defense Finance and Accounting Service (DFAS) correspondence, various dates, and (6) medical treatment notes, various dates. The applicant's complete submission is at Exhibit F.

APPLICABLE AUTHORITY/GUIDANCE

The military Disability Evaluation System (DES), established to maintain a fit and vital fighting force, can by law, under Title 10, United States Code (USC), only offer compensation for those service incurred diseases or injuries which specifically rendered a member *unfit* for continued service and were the cause for career termination; and, then only for the degree of impairment present at the time of separation and not based on future occurrences. DoDI 1332.32, *Physical Disability Evaluation*, reads “A Service member shall be considered *unfit* when the evidence establishes that the member, due to physical disability, is unable to reasonably perform the duties of his or her office, grade, rank or rating.”

AIR FORCE EVALUATIONS

NGB/SGP recommends denying the applicant’s request that his record be corrected to service-connected (medical). Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice to the applicant’s type of discharge. There is no supporting line of duty (LOD) determination nor medical documentation indicating the member has an unfitting condition in accordance with (IAW) DAFMAN 48-123, *Medical Examinations and Standards*. Therefore, the applicant is not eligible for DES processing IAW 36-3212, *Physical Evaluation for Retention, Retirement and Separation*.

The complete advisory opinion is at Exhibit G.

NGB/A1Y recommends denying the applicant’s request to waive recoupment of his enlistment bonus. Based on the documentation provided by the applicant and analysis of the facts, there is not enough evidence to approve his request to waive his unearned portion of his non-prior service enlistment bonus. The \$2,909.22 the applicant paid back is based off a separation date of 4 Mar 18, and not the actual separation date shown on the NGB Form 22 or separation order of 29 Aug 17. Based on the date of separation, the applicant owes \$979.67 of the actual amount of his unearned non-prior service bonus.

The complete advisory opinion is at Exhibit I.

APPLICANT’S REVIEW OF AIR FORCE EVALUATIONS

The Board sent copies of the advisory opinions to the applicant on 1 Dec 21 and 2 Feb 22 for comment (Exhibits H and J) 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 NGB/SGP and NGB/A1Y and finds a preponderance of the evidence does not substantiate the applicant’s contentions. 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 (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2020-01080-2 in Executive Session on 21 Mar 22:

Panel Chair
Panel Member
Panel Member

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

Exhibit E: Record of Proceedings, w/ Exhibits A-D, dated 22 Nov 20.
Exhibit F: Application, DD Form 149, w/atchs, dated 19 Mar 21 and 23 Jun 21.
Exhibit G: Advisory Opinion, NGB/SGP, w/atchs, dated 15 Sep 21.
Exhibit H: Notification of Advisory, SAF/MRBC to Applicant, dated 1 Dec 21.
Exhibit I: Advisory Opinion, NGB/A1Y, dated 28 Dec 21.
Exhibit J: Notification of Advisory, SAF/MRBC to Applicant, dated 2 Feb 22.

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.

X

Board Operations Manager, AFBCMR