



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2020-02851

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

The Board reconsider his request for a service-connected medical discharge.

RESUME OF THE CASE

The applicant is an honorably discharged Air Force airman basic (E-1).

On 21 Mar 22, the Board considered and denied his request to amend his official military personnel record to reflect a service-connected disability with his honorable discharge finding the applicant had provided insufficient evidence of an error or injustice to justify relief. Additionally, 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 3 Apr 23, the applicant requested reconsideration of his request for a service-connected medical discharge. He contends he reported that he was injured and was examined by Orthopedics at **Work-Product** Air Force Base (AFB), Texas (TX) in 1974. The diagnosis was minor muscle spasms and probable functional scoliosis. On 18 Apr 75, a request was made by the **Work-Product** Veterans Administration (VA) to complete a disability compensation claim made on his behalf to **Work-Product** AFB. This was his first application for VA disability because his back injury occurred while he was in basic training.

His second request for VA disability was at the **Work-Product**, TX VA. This documentation shows the medical examination notes and notification of his denial to a second consideration for disability because his back injury occurred while in basic training. Also provided is the Veteran's Appeal decision that his back injury that occurred while in basic training as being a service-connected injury. He feels the Board should correct his discharge record to show he was injured as the reason for his discharge and change his discharge to an honorable service-connected medical discharge. He believes the error was in his original diagnosis and follow-up diagnoses made in his VA disability evaluations. In support of his reconsideration request, the applicant submitted the following new evidence: (1) Medical Documentation for back injury; (2) Veteran's Application for Compensation or Pension; (3) Veterans Administration correspondence; and (4) Board of Veteran's Appeals decision letter.

The applicant's complete submission is at Exhibit F.

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AIR FORCE EVALUATION

BCMR Medical Advisor recommends denying the application. Based on a review of available records, this advisor finds insufficient evidence to support the applicant's request for a service-connected medical discharge.

Although the applicant has an honorable discharge, he is requesting to have it changed to reflect a service-connected medical discharge. He consistently reported a history of back injury (no specifics) while in basic training in 1974. However, there was no documented record evidence that any such injury occurred at that time. The 30 Oct 74 orthopedic consult gave an idea of when the applicant's reported pain began by noting the presence of back pain starting three weeks prior to the 30 Oct 74 consult date, which would date the onset of pain to the early part (first 10 days) of Oct 74.

The earliest time to denote a specific mechanism of injury relating to the applicant's back reportedly occurring in 1974 was in Aug 19 and Nov 20; 45 and 46 years after basic training. Each encounter explained information about a full canteen that fell from the applicant's web belt and onto his back. No identified height or falling distance was documented. However, in the 2020 encounter, the parameters of the event were more detailed in its description. Specifically written, "When ordered to 'drop' and do push-ups. He [the applicant] claims that he was then wearing a web belt with a full canteen, which was not properly fastened, so when he assumed a push-up position, the canteen dropped and slammed on to his back." This medical advisor significantly questions such a history due to the unnatural plausibility of the stated events. This advisor does not question that a full canteen was loosely attached to his belt and very well could have fallen off, but in this explanation, the applicant was "wearing the belt" so one could assume that the belt and canteen was placed just above and around the applicant's hip bones... very close proximity to the low back and therefore, no significant fall. An additional point to consider is that, as stated by the applicant, the canteen fell from the web belt "when he assumed the pushup position." This stated explanation appears nonsensical in that when a push-up position is achieved, the body is very close to the ground and nearly parallel to the same. If the canteen was loosely placed in the very middle of the back, there would be no actual 'dropping' and certainly no 'slamming' into the back when positioned for a push-up. If the canteen placement was more lateral on the belt (closer to the hips), then in a push-up position any fall mechanism of the canteen would be to the ground and away from any portion of the spine anatomy.

The evidence that the applicant was reporting back pain sometime during basic training in 1974 appears accurate as per submitted documentation; however, the question of him experiencing an actual injury or any sort of traumatic event to the spine remains. Having the orthopedic consult state "no prior history of injury" coupled with x-ray findings of a mild degree of scoliosis (a chronic, long term [not an acute] condition), self-reporting of a spine disorder (not an injury), a normal physical examination except for a muscle spasm, lent great probative value to the preponderance of evidence that an injury did not occur.

During his nearly 50 years since his service separation, the applicant has had a significant medical history including a low back surgical fusion in Nov 16. However, such surgery is unrelated to the nidus stemming from what the applicant reported occurring many decades in the past. The intervening event of simple aging over multiple decades would be the plausible cause of degenerative changes within the spinal column leading to pain, instability, and probable surgery.

Lastly, this advisor non-concurs with the VA provider who authored the rationale that, "Veteran had documented back injury during AD military service. This has progressed over the years without any documented post-military injuries. His current (2020) back problems most likely

arose from the injury on AD. Nexus for direct service-connection of lumbar spine condition is established.” This statement is false from the start for the medical evidence (to include plausibility) did not prove that an injury to his back occurred in 1974.

Finally, his honorable discharge was not based upon any abnormal physical condition, but rather an un-suiting psychological condition that rendered him an administrative separation. His separation was conducted in a manner that was governed by Air Force regulatory guidance without error. The burden of proof is placed on the applicant to submit evidence to support their contention/request. The evidence he submitted were assessed as lacking a definitive nature and inconsistent summaries in proving such an injurious condition occurred while in basic training. Therefore, case documents do not support his request to change his service documents to a medical discharge.

The complete advisory opinion is at Exhibit H.

APPLICANT’S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 29 Dec 23 for comment (Exhibit I) and the applicant replied on 26 Jan 24. In his response, the applicant contended his injury occurred while he was in a motivation detention program. He was at the completion of his detention when the injury occurred and his sergeant informed him that if he did not complete the day’s activities, his detention would begin from day one. He completed the day’s activities in constant pain with the threat of losing his time spent in detention and going back to day one. The injury occurred when he was instructed to do pushups. His canteen landed on the lower part of his spine causing him severe pain. While he was in pain, the sergeant put his foot on the canteen and told him to raise up. When he told the sergeant about the pain he was in, the sergeant said he needed to complete all the day’s activities to get credit for the day, which was his final if he completed all the activities. At the end of the day, he was allowed to have his injury checked.

He went to the infirmary several times for the pain and was never told he had a cracked spine. He was told he could not have the position he signed up for as an air traffic controller because he was in detention, so he sought to be dismissed from the Air Force because of the guarantee he had upon enlisting. He became disillusioned and was in even more pain. He was given muscle relaxers and had guard duty the same evening. He asked to be relieved because of the medication and was not granted release. He fell asleep on guard duty which caused the sergeant to place him under arrest awaiting court-martial.

He sought an attorney and wanted to file assault charges on his first sergeant who had sent him to detention. He had only tried to prevent a group leader from cutting in front of him in the chow line. When confronted by the sergeant, he was picked up by the collar and he told the sergeant he did not think he was supposed to put his hands on him. This caused the sergeant to place him in detention. He believed this was unfair and nothing happened to the group leader that tried to cut the line in front of him. This happened before he was injured and was the beginning of his horrible experience in the Air Force.

The treatment he received from the sergeant and airmen during his second detention was abusive and degrading. He was constantly being told he was going to Leavenworth prison and pushed around and humiliated in front of the platoon. He was appointed a lawyer at his request who investigated his claim of abuse by the first sergeant. The lawyer said he spoke with witnesses who verified his story. He was given a test that would determine if he would stay in the Air Force if he passed; therefore, he failed. He believes he took the test twice.

Before he entered the Air Force, he did not have any signs of injury to his spine in his x-rays. The diagnosis of having musculoskeletal pain with probable secondary functional scoliosis was rejected by the lab technician in the [Work-Product] VA hospital in 1975 when he went for a disability compensation evaluation. His results pointed out the injury to his spine and refuted the claim of functional scoliosis. When he had surgery due to losing feeling in his left leg because of the crack in his spine, the surgeon said the build up of bone spurs around the crack was so massive that it stood to reason that the injury occurred at least 40 years before.

He was injured while in detention in the Air Force and he feels his injury should have been enough to get him dismissed with a medical release from the Air Force. He also believes when the sergeant put his foot on his canteen after it hit his spine, he caused his injury to be more severe than it would have been if just the canteen hit his spine. Instead, he was given guard duty while on muscle relaxers and punished for not staying awake on guard duty. He is asking for his discharge to be changed to a medical discharge because of his injury.

The applicant's complete response is at Exhibit J.

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, to include the applicant's rebuttal, the Board remains unconvinced the evidence presented demonstrates an error or injustice. The Board concurs with the rationale and recommendation of BCMR Medical Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant's discharge was based upon an unsuiting psychological condition that resulted in an administrative separation. There is no evidence of an injury resulting in a condition severe enough to render the applicant unfitting for continued military service. 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 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-2020-02851 in Executive Session on 21 Feb 24:

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 E: Record of Proceedings, w/ Exhibits A-D, dated 23 Nov 22.

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Exhibit F: Application, DD Form 149, w/atchs, dated 3 Apr 23.
Exhibit G: Documentary evidence, including relevant excerpts from official records.
Exhibit H: Advisory Opinion, BCMR Medical Advisor, dated 18 Dec 23.
Exhibit I: Notification of Advisory, SAF/MRBC to Applicant, dated 29 Dec 23.
Exhibit J: Applicant's Response, dated 26 Jan 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.

3/8/2024

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