



FOR OFFICIAL USE ONLY – PRIVACY ACT OF 1974 APPLIES

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2021-02449

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Her Major Depressive Disorder (MDD) and General Anxiety Disorder (GAD) be assessed as combat-related in order to qualify for compensation under the Combat-Related Special Compensation (CRSC) Act.

APPLICANT'S CONTENTIONS

On 1 Mar 21, her claim for CRSC was denied even though she experienced hazardous service due to her deployment. Her training and deployment to *Work-Product* in 2006 resulted in her disability due to hazardous conditions to include sleep deprivation, constant loud noises, fumes from trucks, heavy lifting, and extreme heat with a constant threat of small arms fire and improvised explosive devices (IED). Her denial letter gave a point of contact to obtain further information to link her disability to an event but this process takes a year to obtain this information and such information is only available to higher ranking officials.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

Dated 4 Jun 18, Special Order *Work-Product*, indicates the applicant was relieved from active duty and placed on the temporary disability retired list (TDRL) with a compensable percentage for physical disability of 70 percent, effective 28 Aug 18. In addition, the orders reflect the applicant's disability was not received in the line of duty as a direct result of armed conflict or caused by an instrumentality of war and the disability was not the direct result of a combat-related injury. She was credited with 14 years and 2 months of active service for retirement.

On 28 Aug 18, DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects the applicant was honorably discharged after serving 14 years and 2 months of active duty. She was discharged, with a narrative reason for separation of "Disability, Temporary (Enhanced)."

**AFBCMR Docket Number BC-2021-02449
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Dated 9 Jan 20, Special Order Work-Product, indicates the applicant was removed from the TDRL and retired with a compensable percentage for physical disability of 50 percent, effective 29 Jan 20. In addition, the orders reflect the applicant's disability was not received in the line of duty as a direct result of armed conflict or caused by an instrumentality of war and the disability was not the direct result of a combat-related injury.

On 9 Feb 21, DD Form 2860, *Claim for Combat-Related Special Compensation (CRSC)*, provided by the applicant indicates she applied for CRSC for MDD and GAD.

Dated 1 Mar 21, a letter provided by the applicant indicates her application was disapproved because no evidence was provided to confirm her disability was the direct result of armed conflict, hazardous service, instrumentality of war, or simulating war. She was informed, if she had additional documentation such as decoration citations or performance reports confirming direct exposure, she could submit for reconsideration. Additionally, she was informed she could contact the United States Air Force Central Command Historians' office for an attack history covering the time and place of her deployment.

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

AIR FORCE EVALUATION

AFPC/DPFDC recommends denying the application, indicating the applicant provided no new evidence that supports her claim for CRSC. The applicant contends her disability was caused by hazardous service due to training and her deployment to Kuwait where she was under constant threat of attack. Documentation provided by the applicant does not confirm her disability was a direct result of Armed Conflict, Hazardous Service, Simulation of War or an Instrument of War. The fact a member incurred a disability during a period of war; while serving in an area of armed conflict; and/or while participating in combat operations is not sufficient by itself to support a combat-related determination per 10 U.S.C. Section 1413a and DoD Financial Management Regulation, Volume 7B Chapter 6. When making combat-related determinations, with regard to Armed Conflict, Hazardous Service, Simulation of War or an Instrument of War, the board looks for definite, documented, causal relationship between the armed conflict and the resulting disability. The applicant has provided no evidentiary documents (decorations, performance reports, from the time of the injuries, etc.) that confirm her disability was the direct result of a combat-related event. This lack of evidence prevents consideration under current CRSC criteria. The Department of Veterans Affairs (DVA) awards service-connected disabilities based on their standards. They resolve doubt in the interest of the veteran and grant service connection for injuries or diseases incurred while in service. While service connection for disabilities is required for initial eligibility for CRSC consideration, the CRSC program is designed to provide compensation for combat-related injuries and its standards are much more rigorous when determining if claimed disabilities qualify as combat-related.

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 23 Aug 21 for comment (Exhibit D), but has received no response.

ADDITIONAL AIR FORCE EVALUATION

The Military Compensation Policy Division of the Office of the Assistant Secretary of Defense (OASD) recommends denying the applicant’s request for CRSC finding her disabilities do not meet the qualifying criteria required to establish they are combat-related for purposes of entitlement to CRSC as incurred through hazardous service.

Determinations of whether a disability is combat-related will be based on the preponderance of available documentary information where the quality of information is more important than quantity. All relevant documentary information is to be weighed in relation to known facts and circumstances, and determinations will be made on the basis of credible, objective documentary information in the records as distinguished from personal opinion, speculation, or conjecture. Specific to the determination of CRSC in the applicant’s case, the definition for disabilities incurred while engaged in hazardous service is included as follows: while engaged in hazardous service, hazardous service is service that includes, but is not limited to, aerial flight, parachute duty, demolition duty, experimental stress duty, and diving duty. A finding that a disability is the result of hazardous service requires the injury or disease be the direct result of actions taken in the performance of such service. Travel to and from such service, or actions incidental to a normal duty status not considered hazardous, are not included.

In 2006, the applicant completed the Basic Convoy Combat Course Medium. Additionally, in Apr 06, she deployed to [Attorney-Cl...], returning in Dec 06. Her 28 Feb 07 enlisted performance report mentions the many types of training and qualifications she completed as part of her preparation to deploy in 2006 and she received two awards related to supporting combat operations during this deployment, an Army Achievement Medal and the [Attorney...] Combat Patch.

The applicant has not met the evidentiary burden required to prove her disabilities qualify for CRSC. The documentary evidence provided indicates her disabilities are not combat-related; however, at the time of her application, she was awaiting receipt of records from AFCENT. If she is now in possession of these records and they provide the evidence necessary to link her GAD to a combat-related event, then it is recommended the Board allow her the opportunity to reapply and reassess her case in light of whatever new evidence is submitted.

The complete advisory opinion is at Exhibit E.

APPLICANT’S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 13 Nov 23 for comment (Exhibit F), 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 concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendations of AFPC/DPFDC and the OASD and finds a preponderance of the evidence does not substantiate the applicant’s contentions. Per 10 U.S.C. Section 1413a and DoD Financial Management Regulation, Vol 7B, Chapter 6, the fact that a member incurred the disability during a period of war; while serving in an area of armed conflict; and/or while participating in combat operations is not sufficient by itself to support a combat-related determination. When making combat-related determinations, the Board looks for definite, documented, causal relationship between the armed conflict and the resulting disability. The DVA awards service-connected disabilities based on their standards. They resolve doubt in the interest of the veteran and grant service connection for injuries or diseases incurred while in service. While service connection for disabilities is required for initial eligibility for CRSC consideration, the CRSC program is designed to provide compensation for combat-related injuries and its standards are much more rigorous when determining if claimed disabilities qualify as combat-related. There needs to be evidence that confirms both the injuries and how they occurred (combat-related event) to confirm the disabilities were a direct result of hazardous 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-2021-02449 in Executive Session on 23 Nov 21 and 18 Jan 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 A: Application, DD Form 149, w/atchs, dated 14 Jul 21.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.

FOR OFFICIAL USE ONLY – PRIVACY ACT OF 1974 APPLIES

Exhibit C: Advisory Opinion, AFPC/DPFDC, dated 2 Aug 21.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 23 Aug 21.

Exhibit E: Advisory Opinion, OASD, Compensation Division, dated 12 Nov 23.

Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 13 Nov 23.

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.

2/7/2024

Work-Product

Board Operations Manager, AFBCMR
Signed by: USAF