



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

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

---

**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2021-03189

*Work-Product*

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

---

**APPLICANT'S REQUEST**

Her COVID-19 illness be found in the line of duty (ILOD).

**APPLICANT'S CONTENTIONS**

She tested positive for COVID-19 after she was on active duty and in a drill status. She teleworks with her civilian job and all relatives living with her tested negative at the time. She was actively participating in military training on 9 Sep 20 through 13 Sep 20 and started to have symptoms on 13 Sep 20. She was put on Medical Continuation (MEDCON) orders after she tested positive from 14 Sep 20 to 23 Sep 20. During this timeframe, several other military members tested positive.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a retired Air National Guard (ANG) technical sergeant (E-6) awaiting retired pay at age 60.

On 9 Sep 20, Order Number *Work-Product*, provided by the applicant, indicates the applicant was on Annual Training (AT) orders.

Dated 1 Oct 20, DFAS Form 702, *Defense Finance and Accounting Service Military Leave and Earnings Statement*, provided by the applicant, indicates the applicant was on Inactive Duty Training (IDT) from 10 through 13 Sep 20.

On 27 Apr 21, AF Form 348, *Line of Duty Determination*, provided by the applicant, indicates she tested positive for COVID-19 on 15 Sep 20 and was found ILOD by her unit. On 25 May 21, an Air Reserve Component (ARC) LOD Determination Board review was done and found the applicant's condition not in the line of duty (NILOD).

On 31 May 21, NGB Form 22, *National Guard Bureau Report of Separation and Record of Service*, reflects the applicant was honorably discharged from the ANG after serving 22 years and 26 days of total service for pay. She was discharged, with a narrative reason for separation of "Transfer to the USAF Reserve Retired List."

**AFBCMR Docket Number BC-2021-03189  
CUI//SP-MIL/SP-PRVCY**

Controlled by: SAF/MRB  
CUI Categories: SP-MIL/SP-PRVCY  
Limited Dissemination Control: N/A  
POC: [SAF.MRBC.Workflow@us.af.mil](mailto:SAF.MRBC.Workflow@us.af.mil)

On 8 Aug 21, a Notification of Determination of NILOD Memorandum, provided by the applicant, indicates her COVID-19 positive results occurred NILOD. On 11 Aug 21, the applicant acknowledged receipt and indicated she would submit new evidence within 45 days.

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

## **AIR FORCE EVALUATION**

NGB/A1PS recommends granting the application. While there is no evidence that the applicant attempted to submit a one-time appeal, based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice. AFI 36-2910, *Line of Duty (LOD) Determination, Medical Continuation (MEDCON), and Incapacitation (INCAP) Pay*, paragraph 2.4, states the member is entitled to a one-time appeal. The member must provide the appeal in writing within 30 days of receipt of the LOD determination and attach the LOD report that is being appealed. The applicant's evidence supporting that she was in a qualified duty status starting 9 Sep 20 through 13 Sep 20, places the greater weight of evidence in favor of the applicant. AFI 36-2910, paragraph 1.6.8, states ARC members require a LOD determination when a member incurs an illness, injury, or disease while serving in any [qualified] duty status. Paragraph 1.9, identifies the standard of evidentiary proof as preponderance of evidence, where all available evidence must be considered including accepted medical principles. A review of the LOD determination confirmed an Inactive Training roster dated 12-13 Sep 20 which correlates with the start and end dates on the AF Form 348. The electronic system reflects the unit commander verified the duty status and proof of status. Based on medically accepted principles and Center for Disease Control (CDC) guidance in effect at that time, the typical incubation period (time from exposure to symptoms) for COVID-19 is 5-7 days, with a span of 2-14 days. The evidence provided in the LOD package clearly showed the applicant was symptomatic on 13 Sep 20 – the applicant's scenario did not fall into the typical time frame for symptoms. The applicant provided evidence of military status on 9 Sep 20 (AT orders) and IDT status from 10-13 Sep 20 via DFAS Form 702. Had the applicant submitted an appeal with this information, it is very likely the Line of Duty (LOD) Determination Board would have overturned the original LOD determination from NILOD to ILOD.

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 13 Apr 22 for comment (Exhibit D), 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 the victim of an error or injustice. The Board concurs with the rationale and recommendation of NGB/A1PS and finds a preponderance of the evidence substantiates the applicant's contentions. Specifically, the applicant submitted evidence supporting she was in a qualified duty status covering the typical incubation period for COVID-19. Therefore, the Board recommends correcting the applicant's records as indicated below.

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 pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that on 25 May 2021, an Air Reserve Component (ARC) LOD Determination Board review was done and found the applicant's condition in the line of duty (ILOD) for a positive COVID-19 test.

### **CERTIFICATION**

The following quorum of the Board, as defined in Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.2, considered Docket Number BC-2021-03189 in Executive Session on 22 Jun 22:

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

All members voted to correct the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 22 Sep 21.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory opinion, NGB/A1PS, dated 6 Apr 22.

Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 13 Apr 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.12.9.

3/27/2023

 Work-Product

Board Operations Manager, AFBCMR  
Signed by: USAF