



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

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

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2021-03506

*Work-Product*

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

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**APPLICANT'S REQUEST**

His AF Form 356, *Findings and Recommended Disposition of USAF Physical Evaluation Board*, Section 9, Column F, be changed to "A" to indicate a direct result of armed conflict as defined in 26 USC 104.

**APPLICANT'S CONTENTIONS**

He responded to an active shooter during a deployment in *Work-Product* and found nine members of his unit were killed in action. He spent the next 11 months struggling with his mental health due to the incident. He was ordered to attend a course to help cope with Post-Traumatic Stress Disorder (PTSD). The course was helpful but he still struggled to keep his personal life together. A combat-related disability would allow approval of Combat Related Special Compensation (CRSC).

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a medically retired Air Force master sergeant (E-7).

On 24 Mar 15, the Department of Veterans Affairs (DVA) proposed a 70 percent disability rating for his combat incurred medical condition of bipolar disorder. The DVA also provided disability ratings for several other service-connected disabilities with a combined disability rating of 100 percent.

Dated 31 Mar 15, AF Form 356, indicates the applicant was found unfit due to his medical condition of bipolar disorder (combat-related no, combat zone yes) and recommended temporary retirement. Column F, *combat-related determination as defined in 26 USC 104* is marked "No."

On 14 Apr 15, AF Form 1180, *Action on Physical Evaluation Board Findings and Recommended Disposition*, indicates applicant agreed with the findings and recommended disposition of the PEB.

Dated 5 May 15, Special Order *Work-Product* indicates the applicant was placed on the temporary disability retired list (TDRL), with a compensable percentage for physical disability of 70 percent.

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Controlled by: SAF/MRB  
CUI Categories: SP-MIL/SP-PRVCY  
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“Disability was the direct result of combat-related injury as defined in 26 U.S.C. 104” is marked as “No.”

Issued 27 Sep 15, the applicant’s DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects he was honorably discharged in the grade of master sergeant (E-7) after serving 13 years, 3 months and 15 days of active duty. His narrative reason for separation is “Disability, Temporary.”

On 14 Jul 16, the DVA increased the applicant’s bipolar disorder from a 70 percent disability rating to a 100 percent disability rating.

Dated 4 Jan 17, AF Form 356, indicates the applicant remains unfit due to his medical condition of bipolar disorder (combat-related no, combat zone yes) and recommends a permanent retirement with disability rating of 100 percent.

Dated 8 Feb 17, Special Order Work-Product, indicates the applicant was removed from TDRL and retired in the grade of master sergeant with a compensable percentage of 100 percent for physical disability. Disability was the direct result of combat-related injury as defined in 26 U.S.C. 104 is marked as “No.”

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

### **AIR FORCE EVALUATION**

AFPC/DPFDC recommends denying the application. There is no indication an error or injustice occurred at the time the Physical Evaluation Board (PEB) processed his disability case. The applicant is requesting for a correction to his record for a disability that he is not rated for by the DVA; therefore, his PEB findings cannot be changed and his PTSD disability claim cannot be considered.

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 14 Jun 22 for comment (Exhibit D), but has received no response.

### **FINDINGS AND CONCLUSION**

1. The application was not 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 recommendation of AFPC/DPFDC and finds a preponderance of the evidence does not substantiate the applicant’s contentions. The Board finds no causal relationship between the event and the resulting disability (bipolar disorder). The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records*

(AFBCMR). While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence. The Board does not find it in the interest of justice to waive the three-year filing requirement. Therefore, the Board finds the application untimely and recommends against correcting the applicant's records.

**RECOMMENDATION**

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; 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 the Department of the Air Force Instruction (DAFI) 36-2603, paragraph 2.5, considered Docket Number BC-2021-03506 in Executive Session on 8 Aug 22:

-  *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 13 Jun 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPFDC, w/atchs, dated 17 May 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 14 Jun 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.

7/19/2023

*Work-Product*

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Board Operations Manager, AFBCMR  
Signed by: USAF