



CUI//SP-MIL/SP-PRVCY
UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2021-03610

COUNSEL:

Work-Product

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Her cerebrovascular accident, left occipital region be found in the line of duty (ILOD).

APPLICANT'S CONTENTIONS

Her LOD determination that found her condition existed prior to service (EPTS) is an error and needs to be corrected. It is clearly stated that dehydration as a result of high tempo duties was a major contributing factor. Her neurologist provided written documentation supporting this stating her stroke must have been due to conditions that were present while she was at work earlier that day, in particular, dehydration. On 6 Apr 03, she did not recognize the symptoms until 20 minutes after departing the base preparing for her unit sponsored rodeo practice. The activities performed during her duty day led to dehydration and the subsequent infarct to her left occipital lobe. Her condition was aggravated by her military service as referenced in ANGI 36-2910, *Line of Duty (LOD) and Misconduct Determinations*.

In support of her request, the applicant provides Neurology clinic notes dated 8 May 17, stating "she [the applicant] asked me to address the service connectedness of her stroke. The stroke occurred within minutes of her leaving the base and no cause such as trauma or other factors just cropped up for the first time that quickly. So the stroke must have been due to conditions that were present while she was still at work earlier that day, in particular the dehydration."

The applicant also submits copies of her line of duty determination, her point credit summary, and the ANGI reference associated with her request.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air National Guard (ANG) master sergeant (E-7) awaiting retired pay at age 60.

Dated 5 Oct 04, AF Form 348, *Line of Duty Determination*, provided by the applicant, indicates she had a cerebrovascular accident of the left occipital region. The form notes in block 11, *Details*

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of Accident or History of Disease, an LOD was not pursued at the time because her symptoms started after the duty and not on-route to home. Because no particular risks were noted, it was felt her military duty did not play a role in her illness. On 4 Dec 04, the form was signed by the appointing authority determining the injury EPTS-LOD not applicable which noted in block 14, dehydration, as a result of high tempo duties was a major contributing factor to her episode. Since the event occurred while on-route to a non-duty activity, recommend EPTS-LOD not applicable.

On 19 Mar 05, NGB Form 22, *National Guard Bureau Report of Separation and Record of Service*, reflects the applicant was honorably discharged from the ANG after serving 20 years, 2 months, and 21 days of total service for pay. She was discharged, with a narrative reason for separation "Retirement."

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

AIR FORCE EVALUATION

NGB/SGPS recommends denying the applicant's request for a LOD determination for her cerebrovascular accident. Based on the documentation provided by the applicant and analysis of the facts, her request requires military and civilian medical records in order to provide a medical recommendation for eligibility of LOD per AFI 36-2910. No military medical records were provided with this application for review. It is the applicant's burden to provide proof of error or injustice. Without military medical records, NGB/SGPS is unable to review the case to recommend if the condition(s) were incurred or service-aggravated while in a qualified duty status or incurred/aggravated in a non-duty status. NGB/SGPS would not be able to recommend approval without the following documentation:

- a. All military and civilian medical documentation related to all illness, injury and potentially disqualifying medical conditions. Medical documentation should include pertinent labs, diagnostic reports, specialty consults, and/or encounter notes related to the condition(s).
- b. Proof of service at the time the injury/illness/disease incurred or was service-aggravated (i.e. Orders, Pay Roster, DD Form 214, etc).

The complete advisory opinion is at Exhibit C.

NGB/A1PS recommends denying the applicant's request for a LOD determination for her cerebrovascular accident. The documentation provided is not sufficient to support the applicant's claim and does not prove evidence of an error or injustice. A1PS stated they would not be able to recommend approval for the same reason as opined in the above advisory from NGB/SGPS.

The complete advisory opinion is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent copies of the advisory opinions to the applicant on 21 Jul 22 for comment (Exhibit E), but has received no response.

ADDITIONAL AIR FORCE EVALUATION

The AFBCMR Medical Advisor recommends denying the application finding no evidence of an error or injustice. The burden of proof is placed on the applicant to submit evidence to support her contention/request. The evidence she did submit was assessed to show genetic conditions that were the nidus for vascular accidents to occur. Therefore, case documents do not support her request for an ILOD finding. She is requesting to favorably find her stroke condition as ILOD, service-aggravated. The entire crux of her reasoning is based upon becoming dehydrated which led to her subsequent stroke. Her stated evidence was two-fold; 1) from her neurologist (authored 14 years after her stroke) writing, "*The stroke must have been due to conditions that were present while she was still at work earlier [that] day, in particular dehydration*" and 2) a statement of "...all medical personnel associated with the case agree that military service was causal for the dehydration."

It is well known and documented in a plethora of medical studies that a state of dehydration can possibly be a contributing factor leading to a stroke. When there is a lack of fluid intake the blood can thicken and move slowly, potentially backing up in a blocked or narrowed blood vessel resulting in stroke. However, in this case, the evidence of any degree of dehydration was not provided. Additionally, the applicant herself noted that the vigorous exercise and prolonged sun exposure was associated with her temporary duty (TDY) to California which ended six days prior to her vascular event. The mere notion that she remained in a state of dehydration for such a prolonged period, to include 6 Apr 03, is nonsensical at best. Additionally, having a provider base an opinion obtained from the applicant 14 years after the health incident is itself viewed as minimally credible. Lastly, although dehydration was stated, there was no documented medical evidence that a state of dehydration even existed. The genetic make-up of the applicant's likelihood of forming clots was clearly EPTS and the Medical Advisor saw no degree of permanent service aggravation.

The complete advisory opinion is at Exhibit F.

APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION

The Board sent a copy of the additional advisory opinion to the applicant on 3 Aug 22 for comment (Exhibit G), 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 recommendations of the Air Force offices of primary responsibility and the AFBCMR Medical Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. Specially, the Board finds the applicant's medical condition EPTS and was not service-aggravated. The limited medical evidence submitted was not compelling enough to grant the applicant's request. 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 Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. 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.

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 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 Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2021-03610 in Executive Session on 24 Aug 22 and 4 Sep 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 4 Nov 21.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, NGB/SGPS, dated 13 Mar 22.
- Exhibit D: Advisory Opinion, NGB/A1PS, dated 20 Jul 22.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 21 Jul 22.
- Exhibit F: Advisory Opinion, AFBCMR Medical Advisor, dated 2 Aug 22.
- Exhibit G: Notification of Advisory, SAF/MRBC to Applicant, dated 3 Aug 22.

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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.

5/15/2023

Work-Product

Board Operations Manager, AFBCMR
Signed by: USAF