

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-00740

XXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His permanent retirement order be corrected to show his injury was in the line of duty (ILOD).

APPLICANT'S CONTENTIONS

His temporary disability retired list (TDRL) order stated "Yes" to the LOD criteria; however, his permanent disability retirement order states "No." All prior documents, including his Medical Evaluation Board (MEB) Summary, states "Yes" to LOD criteria.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a physical disability retired Air Force senior airman (E-4).

On 20 Nov 17, AF Form 356, *Findings and Recommended Disposition of USAF Informal Physical Evaluation Board (IPEB)*, shows the applicant was found unfit to perform the duties of his office, grade, rank, or rating and recommended temporary retirement with a disability rating of 100 percent.

On 29 Jan 18, Special Order No. XXXXX, shows the applicant was placed on TDRL with compensable percentage for physical disability of 100 percent. His order shows "Disability was incurred in a combat zone or incurred during the performance of duty in combat-related operations as designated by the Secretary of Defense (NDAA08,SEC 1646)"—"YES"

On 4 Aug 20, AF Form 356 shows the IPEB found the applicant remains unfit for military service and recommended permanent retirement with a disability rating of 50 percent .

On 14 Oct 20, Special Order No. XXXXX, provided by the applicant, shows he was removed from the TDRL and permanently retired with compensable percentage for physical disability of 50 percent.

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

AIR FORCE EVALUATION

AFPC/DPFDC recommends denying the application. AF Form 356, dated 04 Aug 20, Block 9F indicates “NO – not combat-related.” Block 10E indicates “Yes – Disability was incurred in a combat zone.” Special Order Work-Pr... is correct, a “Yes” would not be indicated on the order.

The complete advisory opinion is at Exhibit C.

APPLICANT’S REVIEW OF THE AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 25 May 21 for comment (Exhibit D), but has received no response.

ADDITIONAL AIR FORCE EVALUATION

On 26 May 21, the Board staff requested AFPC/DPFDC review their previous advisory. Specifically, to clarify some of the language in the evaluation. In a memorandum dated 16 Jun 21, AFPC/DPFDC still recommends denial, indicating Special Order XXXXX removed the applicant from the TDRL and retired him. However, this order does not have the same last statement as placing the member on the TDRL, Special Order XXXXX. A "YES" indicator would not be on an order removing the applicant from the TDRL.

The complete advisory opinion is at Exhibit E.

APPLICANT’S REVIEW OF ADDITIONAL AIR FORCE EVALUATION

The Board sent a copy of the additional advisory opinion to the applicant on 22 Jun 21 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 recommendation of AFPC/DPFDC and finds a preponderance of the evidence does not substantiate the applicant’s contentions. Special Order XXXXX removed the applicant from the TDRL and retired him. However, this order does not have the same last statement as placing the member on the TDRL, Special Order XXXXX. A "YES" indicator would not be on an order removing the applicant from the TDRL. 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 Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2021-00740 in Executive Session on 14 Jul 21 and 23 Jul 21:

, Panel Chair
, Panel Member
, Panel Member

All members voted against correcting the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 28 Sep 20.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory opinion, AFPC/DPFDC, dated 16 Jun 21.
Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 16 Jun 21.

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.

X

Work-Product

Board Operations Manager, AFBCMR