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UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-00408

Work-Product

COUNSEL: *Work-Product*

HEARING REQUESTED: NO

APPLICANT'S REQUEST

He be given a medical retirement.

APPLICANT'S CONTENTIONS

The Physical Evaluation Board (PEB) erred in its decision to not permanently disability retire him for his unfitting condition of myopathy. His medical records clearly show he was suffering from myopathy and his current medical records from the Department of Veterans Affairs (DVA) shows this condition as service-connected with a disability rating of 80 percent. The Air Force caused his medical issues and they have negatively impacted his life since his discharge.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force staff sergeant (E-5).

On 10 Nov 16, AF IMT 618, *Medical Board Report*, indicates the applicant was referred to the Informal Physical Evaluation Board (IPEB) for Rhabdomyolysis.

On 16 Dec 16, the DVA proposed a disability rating for his Category I unfitting medical condition of Myositis with Rhabdomyolysis at 0 percent.

On 21 Dec 16, AF Form 356, *Informal Findings and Recommended Disposition of USAF Physical Evaluation Board*, indicates the applicant was found unfit due to his medical condition of Rhabdomyolysis with Inflammatory Myopathy; DVA Rated as Myositis with Rhabdomyolysis with a disability compensation rating of 0 percent with a recommendation of "Discharge with Severance Pay (DWSP)." It is noted the Board considered all other medical conditions (Category II and III) rated by the DVA related to the applicant's military service as required under the Integrated Disability Evaluation System (IDES) and found these conditions were not currently unfitting for duty either separately or collectively.

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POC: SAF.MRBC.Workflow@us.af.mil

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On 4 Jan 17, AF Form 1180, *Action on Physical Evaluation Board Findings and Recommended Disposition*, indicates the applicant agreed with the findings and disposition of the Board and waived his rights to a formal hearing.

On 28 Mar 17, DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects the applicant was honorably discharged in the grade of staff sergeant (E-5) after serving nine years, one month, and three days of active duty. He was discharged, with a narrative reason for separation of “Disability, Severance Pay, Non-Combat (Enhanced).”

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

AIR FORCE EVALUATION

AFPC/DPFDD recommends denying the applicant’s request for a medical retirement. Based on the documentation provided by the applicant and analysis of the facts, there is no indication an error or injustice occurred at the time the PEB processed his disability case. There is no change to the IDES unfitting condition and the DVA service-connected disabilities that were not considered unfitting do not warrant change to the original PEB disposition. The IPEB found him unfitting for Rhabdomyolysis with Inflammatory Myopathy; DVA rated as Myositis with Rhabdomyolysis rated at 0 percent. Under the IDES, the PEB must utilize the disability ratings assigned by the DVA. The applicant’s most recent DVA rating decision indicates that his Myositis with Rhabdomyolysis is still currently rated at 0 percent, therefore there has been no change to this unfitting condition. It is noted that the original rating decision dated 16 Dec 16, reflected a combined DVA compensable disability rating of 70 percent and the current combined DVA rating has been changed to 80 percent effective 29 Mar 17. However, none of these other DVA compensable conditions were considered unfitting for IDES purposes and therefore not rated by the PEB.

The Air Force and the DVA disability systems operate under separate laws. Under the Air Force system (Title 10, U.S.C.), the PEB must determine whether an airman’s medical condition renders them unfit for continued military service relating to their office, grade, rank or rating. To be unfitting, the condition must be such that it alone precludes the member from fulfilling their military duties. The PEB then applies the rating best associated with the level of disability at the time of disability processing (a snapshot in time). That rating determines the final disposition (discharge with severance pay, placement on the temporary disability retired list, or permanent retirement) and is not subject to change after the service member has separated. Under the DVA system (Title 38, U.S.C), the member may be evaluated over the years and their rating may be increased or decreased based on changes in the member’s medical condition at the current time. However, a higher rating by the DVA, based on new and/or current exams conducted after discharge from service, does not warrant a change in the total compensable rating awarded at the time of the member’s separation.

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 25 Jul 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 not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DPFDD and finds a preponderance of the evidence does not substantiate the applicant’s contentions. Specifically, the Board finds the applicant’s other service-connected medical conditions rated by the DVA are not considered as unfitting for IDES purposes. The mere existence of a medical diagnosis does not automatically determine unfitness and eligibility for a medical separation or retirement. The applicant’s military duties were not degraded due to these medical conditions. A Service member shall be considered unfit when the evidence establishes that the member, due to physical disability, is unable to reasonably perform the duties of his or her office, grade, rank, or rating. Additionally, the applicant’s most recent DVA rating decision indicates that his Myositis with Rhabdomyolysis to which he received DWSP is still currently rated at 0 percent. Therefore, the Board recommends against correcting the applicant’s records.

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 (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.5, considered Docket Number BC-2022-00408 in Executive Session on 5 Oct 22:

Work-Product	Chair, AFBCMR
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 20 Sep 21.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPFDD, w/atchs, dated 9 Mar 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 25 Jul 22.

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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.

5/23/2023

Work-Product

Board Operations Manager, AFBCMR
Signed by: USAF

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