



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-2022-00468

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

1. Her unfitting medical condition of Post-Traumatic Stress Disorder (PTSD) be found as combat-related, as a direct result of armed conflict as defined in 26 U.S.C. 104 combat-related determination.
2. Her PTSD be assessed as combat-related in order to qualify for compensation under the Combat-Related Special Compensation (CRSC) Act.

APPLICANT'S CONTENTIONS

She is being denied CRSC because her official disability records do not show her PTSD as combat-related. She was involved in two active-shooter incidents while in the service with the second incident being a direct threat to her life and safety. These incidents involved weapons, terrorism, and instruments of war that caused her PTSD.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a medically retired Air Force second lieutenant (O-1).

On 16 Apr 21, AF IMT 618, *Medical Board Report*, indicates the applicant was referred to the Informal Physical Evaluation Board (IPEB) for PTSD.

On 26 Apr 21, the Department of Veterans Affairs (DVA) proposed a disability rating for her Category I unfitting medical condition of PTSD at 70 percent.

On 4 May 21, AF Form 356, *Informal Findings and Recommended Disposition of USAF Physical Evaluation Board*, indicates the applicant was found unfit due to her medical condition of PTSD with a disability compensation rating of 70 percent with a recommendation of "Temporary Retirement." Column F indicates no for combat-related determination as defined in 26 U.S.C. 104.

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Controlled by: SAF/MRB
CUI Categories: SP-MIL/SP-PRVCY
Limited Dissemination Control: N/A
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On 5 May 21, 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 her rights for any further appeal.

Dated 12 May 21, Special Order Work-Product indicates the applicant was placed on the temporary disability retired list (TDRL) in the grade of second lieutenant (O-1) with a compensable percentage for physical disability of 70 percent, effective 5 Jul 21.

Dated 20 Sep 21, a letter from AFPC/DPFDC indicates the applicant's CRSC claim was disapproved for her medical condition of PTSD stating the fact that a member incurred the disability during a period of war; while serving in an area of armed conflict; and/or while participating in combat operations is not sufficient by itself to support a combat-related determination. When making combat-related determinations, with regard to armed conflict, hazardous service, simulation of war or an instrument of war, the Board looks for definite, documented, causal relationship between the armed conflict and the resulting disability.

Dated 18 Oct 21, a letter from AFPC/DPFDC indicates the applicant's reconsideration claim for CRSC was disapproved stating no additional information or documentation was found to warrant approval. The information provided did not indicate she was directly involved in the terrorist attack on 6 Dec 19. To be approved for CRSC, a clear and direct relationship to specific "combat" stressors (such as exposure to hostile fire) must be reflected in official documentation (such as a decoration or performance report, etc.). In regard to the active shooter situation on 6 Mar 20, it was a criminal act, not a terrorist attack. This prevents consideration under current CRSC criteria.

Dated 22 Dec 21, a letter from AFPC/DPFDC indicates the applicant's reconsideration claim for CRSC was disapproved stating no additional information or documentation was found to warrant approval.

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 application. 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 her disability case or during CRSC disapproval. Additionally, CRSC approval/disapproval has no bearing on the original Disability Evaluation System (DES) combat-related determinations or vice versa as some members who are determined combat-related through the DES may not qualify for CRSC under that program's rules.

Under Title 10, U.S.C., the PEB must determine if a member's condition(s) renders them unfit for continued military service relating to their office, grade, rank or rating. Additionally, per DoDI 1332.18, *Disability Evaluation System*, Appendix 5 to Enclosure 3, the PEB renders a final decision on whether an injury or disease that makes the service member unfit or that contributes to unfitness was incurred in combat with an enemy of the United States, was the result of armed

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conflict, or was caused by an instrumentality of war during war. A disability is considered combat-related if it makes the service member unfit or contributes to unfitness and the preponderance of evidence shows it was incurred under any of the following: (1) as a direct result of armed conflict, whereas the injury or disability was incurred in combat with an enemy of the United States; (2) while engaged in hazardous service to include, but not limited to, aerial flight duty, parachute duty, demolition duty, experimental stress duty, and diving duty; (3) under conditions simulating war which covers disabilities resulting from military training, such as war games, practice alerts, tactical exercises, airborne operations, and leadership reaction courses; grenade and live fire weapons practice; bayonet training; hand-to-hand combat training; rappelling; and negotiation of combat confidence and obstacle courses but does not include physical training activities, such as calisthenics and jogging or formation running and supervised sports; or (4) caused by an instrumentality of war. Occurrence during a period of war is not a requirement to qualify. If the disability was incurred during any period of service as a result of wounds caused by a military weapon, accidents involving a military combat vehicle, injury or sickness caused by fumes, gases, or explosion of military ordnance, vehicles, or material, the criteria are met. However, there must be a direct causal relationship between the instrumentality of war and the disability. For example, an injury resulting from a service member falling on the deck of a ship while participating in a sports activity would not normally be considered an injury caused by an instrumentality of war (the ship) since the sports activity and not the ship caused the fall. The exception occurs if the operation of the ship caused the fall.

The IPEB found her unfitting for PTSD with the following remarks: “She has endorsed exposure to two traumatic experiences at the military installation to which she was assigned, including a terrorist attack in Dec 19 which occurred in the building next to her residence. The applicant witnessed dead bodies, feared for her life due to the close proximity, and was in lockdown for 30 hours. In Mar 20, an active shooter incident occurred when a coworker subsequently threatened to kill staff and people in the community, and the applicant felt that her reporting of his near daily failure to be present for duty may have contributed to his agitation and threatening behavior. She has subsequently experienced PTSD symptoms including flashbacks, daily anxiety/panic attacks, nightmares, hypervigilance, and sleep difficulty. The applicant has been treated with therapy and psychotropic medications but has persistent symptoms which result in marked impairment for military service and considerable social/industrial impairment. She is felt unlikely to further improve or resolve while in the military since being on a military base is a trigger for her PTSD symptoms, with increased risk for decompensation due to military exercises such as active shooter training.” While the IPEB determined these traumatic events directly contributed to her PTSD diagnosis, the MEB Narrative Summary did not indicate that she was directly involved in either event and simply being in close proximity or feeling threatened by the events does not constitute a combat-related event. Therefore the PEB determined the condition was not considered combat-related in accordance with DoDI 1332.18.

The applicant requested CRSC consideration on 2 Sep 21 and 30 Sep 21. Her claims were reviewed and disapproved because the evidence provided did not prove she was directly involved in the 6 Dec 19 and 6 Mar 20 active shooter incidents. The CRSC section acknowledges that the applicant’s PTSD is service-connected with the DVA and she incurred her disabilities because of the traumatic events listed above; however, that is not sufficient by itself to support a combat-

related determination. In accordance with 10 U.S.C. Section 1413a and DoD Financial Management Regulation, Vol 7B Chapter 63, there must be a definite causal relationship between the armed conflict and the resulting disability. Furthermore, DES combat-related decisions are made when the preponderance of evidence, including a retiree's subjective testimony, indicate combat relation. In contrast, the evidentiary standard for CRSC entitlement is the preponderance of objective evidence, requiring official and corroborated documentation to show combat relation. When submitting a claim for CRSC, retirees may submit their DES decision documents as evidence, but must also provide corroborating evidence.

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 18 May 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. A disability is considered combat-related if it makes the member unfit or contributes to unfitness and the preponderance of evidence shows it was incurred under any of the following circumstances; as a direct result of armed conflict; while engaged in hazardous service; under conditions simulating war; or caused by an instrumentality of war. Armed conflict is defined as a war, expedition, occupation of an area or territory, battle, skirmish, raid, invasion, rebellion, insurrection, guerilla action, riot, or any other action in which service members are engaged with a hostile or belligerent nation, faction, force, or terrorist. Specifically, the Board did not find evidence indicating she was directly involved in either active shooter incident, therefore her PTSD is not considered combat-related. 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-2022-00468 in Executive Session on 5 Oct 22:

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Work-Product [Redacted] Chair, AFBCMR
[Redacted] Panel Member
Work-Product [Redacted] Panel Member

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

- Exhibit A: Application, DD Form 149, dated 12 Jan 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPFDD, w/atchs, dated 23 Mar 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 18 May 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.

5/23/2023

Work-Product [Redacted]

Board Operations Manager, AFBCMR
Signed by: USAF