

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2022-01508

XXXXXXXXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

### APPLICANT'S REQUEST

His discharge with severance pay (DWSP) be changed to a permanent disability retirement.

### APPLICANT'S CONTENTIONS

His service-connected medical condition continued to increase in severity during his reevaluation period. Since discharge, the Department of Veterans Affairs (DVA) increased his combined disability rating to 100 percent and rendered him permanent, total disability.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a former Air Force senior airman (E-4).

On 10 Feb 93, AF IMT 618, *Medical Board Report*, indicates the applicant was referred to the Informal Physical Evaluation Board (IPEB) for asthma and chronic sinusitis.

On 17 Jun 93, according to Special Order **Work-Product**, dated 17 May 93, the applicant was placed on the TDRL in the grade of senior airman with compensable percentage for physical disability of 30 percent. On this same date, the applicant received an honorable discharge. His narrative reason for separation is "Placed on TDRL." He was credited with 3 years, 7 months and 21 days of total active service.

On 14 Dec 94, AF Form 356, *TDRL Reexamination Informal Findings and Recommended Disposition of USAF Physical Evaluation Board*, provided by the applicant, indicates the applicant was found unfit due to his medical condition of asthma with a disability compensation rating of 10 percent with a recommendation of "Discharge with Severance Pay."

On 18 Mar 95, Special Order **Work-Product**, dated 8 Mar 95, provided by the applicant, indicates he was removed from the TDRL and discharged in the grade of senior airman (E-4) by reason of physical disability with entitlement to disability severance pay.

On 4 Nov 16, according to a DVA Compensation Rating letter, provided by the applicant, the DVA increased his disability rating of 30 percent for asthma to 60 percent effective 26 Mar 12.

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 granting the application. Based on the documentation provided by the applicant and analysis of the facts and the IPEB full review, there is evidence of an error or injustice occurred during the processing of his medical case. The Veteran Affairs Schedule for Rating Disabilities (VASRD) code 6602 indicates a rating of 60 percent is warranted for asthma for the following: Forced expiratory volume in one second (FEV-1) less than 40 to 55 percent, or at least monthly visits to a physician for required care of exacerbation, or intermittent (at least three per year) courses of systemic (oral or parenteral corticosteroids). The applicant's records indicate he required frequent (at least intermittently) use of steroids to control his asthma. Therefore, the applicant's disability rating should be change from 10 percent to 60 percent.

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 26 Oct 22 for comment (Exhibit D), but has received no response.

### **FINDINGS AND CONCLUSION**

1. The application was not timely filed, but it is in the interest of justice to excuse the delay.
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 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 substantiates the applicant's contentions. Specifically, the medical evidence the applicant submitted indicates an error occurred with his asthma rating during the processing of his medical case. He required frequent use of steroids to control his asthma which warrants a 60 percent disability rating under VASRD code 6602. Therefore, the Board recommends correcting the applicant's records as indicated below.

### **RECOMMENDATION**

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show:

- a. On 14 December 1994, he was found unfit to perform the duties of his office, rank, grade, or rating by reason of physical disability, incurred while he was entitled to receive basic pay; the diagnosis in his case was Triad Asthma, VASRD code 6602; with a disability rating of 60 percent; the degree of impairment was permanent; the disability was not due to intentional misconduct or willful neglect; the disability was not incurred

during a period of unauthorized absence; and the disability was not received as a direct result of armed conflict or caused by an instrumentality of war.

b. On 18 March 1995, he was removed from the TDRL and he was permanently retired with a compensable percentage for physical disability of 60 percent.

c. His election of the Survivor Benefit Plan option will be corrected in accordance with his expressed preferences and/or as otherwise provided for by law or the Code of Federal Regulations.

## **CERTIFICATION**

The following quorum of the Board, as defined in the Department of the Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.5, considered Docket Number BC-2022-01508 in Executive Session on 22 Mar 23:

, Panel Chair  
, Panel Member  
, Panel Member

All members voted to correct the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 12 May 22.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory opinion, AFPC/DPFDC, dated 3 Oct 22.

Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 26 Oct 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.