



CUI//SP-MIL/SP-PRVCY

**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Attorney-Client

DOCKET NUMBER: BC-2022-02381

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His honorable discharge be changed to reflect a medical retirement.

APPLICANT'S CONTENTIONS

The Department of Veterans Affairs (DVA) increased his disability rating for his service-connected severe atopic dermatitis. His base doctor dismissed his concerns about atopic dermatitis and did not provide adequate care, education or guidance which enhanced his condition to the level it is now. His atopic dermatitis should have been found unfitting for service which would have warranted a Physical Evaluation Board (PEB). His condition meets and exceeds the standard for a medical discharge.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 28 Sep 02, the applicant received an honorable discharge. His narrative reason for separation is "Completion of Required Active Service." He was credited with 4 years and 27 days of total active service.

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

AIR FORCE EVALUATION

The AFBCMR Medical Advisor finds insufficient evidence to support the applicant's request to change his discharge outcome to reflect a medical retirement. A post-service DVA rating is not synonymous or equivalent to the military's disability evaluation at the time-of-service discharge. The military's Disability Evaluation System (DES), established to maintain a fit and vital fighting force, can by law, under Title 10, United States Code (U.S.C.), only offer compensation for those service incurred diseases or injuries which specifically rendered a member unfit for continued active service and were the cause for career termination; and then only for the degree of impairment present at the snapshot time of separation and not based on future progression of injury or illness. On the other hand, operating under a different set of laws (Title 38, U.S.C.), with a different purpose, the DVA is authorized to offer compensation for any medical condition determined service incurred, without regard to and independent of its demonstrated or proven impact upon a

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service members retainability, fitness to serve, or the length of time since date of discharge. His separation was in accordance with regulatory guidance for a routine service discharge. The burden of proof is placed on the applicant to submit evidence to support his request. The evidence he did submit were assessed to not support his request for a finding of or granting a medical retirement.

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 3 Mar 23 for comment (Exhibit D), 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 opinion of the AFBCMR Medical Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board took note of the applicant's disability ratings from the DVA but did not find this evidence compelling to warrant relief. The military's DES established to maintain a fit and vital fighting force, can by law, under Title 10, U.S.C., only offer compensation for those service incurred diseases or injuries, which specifically rendered a member unfit for continued active service and were the cause for career termination; and then only for the degree of impairment present at the time of separation and not based on post-service progression of disease or injury to which the DVA can offer compensation. 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 Department of the 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 Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2022-02381 in Executive Session on 26 Apr 23:

Attorney-Client	Panel Chair
	Panel Member
Attorney-Client	Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 19 Apr 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFBCMR Medical Advisor, dated 2 Mar 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 3 Mar 23.

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.

1/3/2024

Attorney-Client

Board Operations Manager, AFBCMR

Signed by: *Attorney-Client*