



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2022-02897

COUNSEL:

Work-Product

HEARING REQUESTED: NO

APPLICANT'S REQUEST

She be awarded 51 constructive participatory points per fiscal year from 2016 to 2022, totaling 357 points toward a United States Air Force Reserve (USAFR) retirement.

APPLICANT'S CONTENTIONS

Through counsel, the applicant contends she was unjustly, improperly, and through sheer complete and calloused disregard by the USAFR, forced to forego seven years' worth of participation with its attendant pay and points toward retirement. She now has seven unsatisfactory years for non-participation over which she was powerless to ameliorate lest she violate a direct order. She had absolutely no control whatsoever over the inordinate delay forced upon her by the USAFR in completing its processes to medically separate her. As she was completely innocent of any oversight negligence or wrongdoing; she should not be punished for something she did not do and over which she had no control. The USAFR owes her credit for the seven years it forbade her from participating in any fashion.

Counsel contends the AFBCMR is the only authority that can offer complete financial and administrative relief in this matter as the USAFR has refused to act and cited the following court cases within his argument: *Dehne v. United States*, 23 Cl. Ct. 606 (1991); *Denton v. United States*, 204 Ct. Cl. 188, 195 (1974); *Denton v. United States*, 204 Ct. Cl. 188, 195 (1974), *cert. denied*, 421 U.S. 963, 95 S. Ct. 1949, 44 L.Ed.2d 449 (1975); *Sanders v. United States*, 594 F.2d at 811; *Friedman v. United States*, 141 Ct. Cl. 239, 158 F. Supp. 364, 374-77 (1958); *cf Friedman v. United States*, 159 Ct. Cl. 1, 310 F.2d 381 (1962); *cert. denied*, 373 U.S. 932, 83 S. Ct. 1540, 10 L.Ed.2d 691 (1963).

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a permanently disability retired USAFR master sergeant (E-7).

According to a Personal Data printout from the military personnel data system (MILPDS), dated 12 Aug 22, the applicant was credited with 17 years of satisfactory service from 1998 through 2015.

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Controlled by: SAF/MRB

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

On 7 Mar 22, according to AF Form 348, *Line of Duty Determination*, the approving authority determined the applicant's major depressive disorder was in line of duty (ILOD).

On 8 Mar 22, the applicant was notified the approving authority determined her post-traumatic stress disorder (PTSD) occurred not in line of duty (NILOD). The applicant indicated she would submit an appeal.

On 28 Apr 22, a Medical Evaluation Board (MEB) referred the applicant to the Informal Physical Evaluation Board (IPEB) for major depressive disorder and PTSD.

According to an email from the applicant's Detachment Commander, dated 2 May 22, and after consultation with ARPC/JA, the applicant's discharge action was rescinded.

On 28 Jun 22, the applicant's line of duty determination appeal request was granted with a determination of ILOD for PTSD.

On 15 Sep 22, the IPEB determined the applicant's PTSD with major depressive disorder was unfitting and recommended permanent retirement with 70 percent combined compensable percentage.

On 20 Oct 22, according to Special Order Number **Work-Product** dated 30 Sep 22, the applicant was permanently disability retired with compensable percentage for physical disability of 70 percent.

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

APPLICABLE AUTHORITY/GUIDANCE

Title 10, United States Code (U.S.C.) Section (§) 12732: Entitlement to retired pay: computation of years of service; DoDI 1215.07, Service Credit for Non-Regular Retirement; AFMAN 36-2136, Reserve Personnel Participation; AFI 36-3209, Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members, ANGI 36-3201, Air National Guard Separation Documents.

The Air Reserve Command is comprised of members from the Air National Guard and the Air Force Reserve. The day a member enters reserve status is considered a Retention/Retirement year. The Retention/Retirement year for a member of the Reserve components begins on one day of one year and ends on the preceding day of the next year [1 July to 30 June] and will remain the same as long as the member does not have a break in service. A new Retention/Retirement date must be established when a member returns to an active reserve status following a break in service.

A reservist in active status is credited with a satisfactory year towards retirement if they earn a minimum of 50 points during the full 12 consecutive months of their Retention/Retirement year. Points are earned as follows: one point for each day of active duty; one point for each Inactive Duty Training period not to exceed two Inactive Duty Training periods per calendar day; and one point for each four study hours of Air Force Institute for Advanced Distributed Learning courses. Fifteen membership points are also earned for a full Retention/Retirement year. Membership points are prorated for each Retention/Retirement year with less than a year in active reserve status.

A partial qualifying year is any period less than 12 full months in which the retirement points credited to a service member, when computed proportionally, are equal to or greater than 50 retirement points. Service members who have a break in service during their Retention/Retirement year will be credited with a partial year of qualifying service for non-regular retirement. An accumulation of 20 such years, except as otherwise provided by law, is one requirement necessary to qualify for non-regular retired pay when they reach age 60 or, in some cases, a lesser qualifying age.

AIR FORCE EVALUATION

HQ RIO/IRO recommends denying the application. There is no record pending medical or physical evaluation board for the applicant from the 2016 – 2022 timeframe nor a document instructing the applicant to not participate by the then Detachment Commander. Upon further evaluation, the current Detachment Commander reviewed alpha rosters from 2015 – 2017, for a Deployment Availability (DAV) Code. No DAV code could be located for the applicant. The DAV code, if found, would've identified a pending medical or physical evaluation board. Due to alleged misconduct founded by OSI in 2017, the applicant was administered a Letter of Reprimand while on military personnel appropriation (MPA) man-day from Oct 14 to Jan 15. Discharge action for a pattern of misconduct was initiated in 2019, therefore, rendered the applicant unable to participate pending disposition of the investigation and subsequent disciplinary discharge action.

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 13 Mar 23 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 HQ RIO/IRO and finds a preponderance of the evidence does not substantiate the applicant's contentions. Specifically, there is no evidence the applicant was directed not to report for duty between 2016 and 2022, more importantly, there is no evidence the applicant performed duty to warrant crediting her with satisfactory service and back pay for the time requested. Additionally, the Board notes counsel's reference to multiple court cases, and does not find them to persuade our decision. Each case before this Board is considered on its own merits. While the Board strives for consistency in the way evidence is evaluated and analyzed, they are not bound to recommend relief in one circumstance simply because the situation being reviewed appears similar to another case. Therefore, the Board recommends against correcting the applicant's records.

RECOMMENDATION

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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 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-2022-02897 in Executive Session on 31 Aug 23:

Work-Product Panel Chair
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 28 Oct 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, HQ RIO/IRO, dated 13 Feb 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 13 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.

X

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8/29/2025

Board Operations Manager, AFBCMR
Signed by: Work-Product

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