RECORD OF PROCEEDINGS

IN THE MATTER OF: XXXXXXXXXXX

DOCKET NUMBER: BC-2023-00459

COUNSEL: XXXXXXXXXXX

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His official military personnel records amended to reflect a medical retirement.

APPLICANT'S CONTENTIONS

He was separated from the Air Force under medical conditions and seeks a medical classification regarding his discharge. It should be classified as medical in order to make him whole and eligible for medical treatment and retirement. He was wrongfully placed in an inactive status for eight years due to the medical condition which caused him to not accumulate points for retirement.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an honorably discharged [State] Air National Guard senior airman (E-4).

On 16 Jun 13, the applicant enlisted in the [State] Air National Guard.

On 22 Jun 14, according to the *Air Force Fitness Management Individual Fitness Assessment History*, provided by the applicant, he received no points/credit in the cardio portion of his fitness assessment, resulting in an overall unsatisfactory fitness score.

On 11 Apr 19, according to AF Form 469, *Duty Limiting Condition Report*, provided by the applicant, he had fitness, duty, and mobility restrictions due to a medical defect/condition that required Medical Evaluation Board or Physical Evaluation Board processing.

On 12 Apr 19, according to *Medical Evaluation Board Narrative Summary*, the applicant was diagnosed with Obstrutctive Hypertrophic Cardiomyopathy, with date of initial onset of Dec 14. The applicant has never attended drill or completed a fitness assessment (FA) due to his condition.

On 16 Apr 19, according to AF Form 1185, *Commander's Impact Statement for Medical Evaluation Board*, the applicant was not recommended for retention.

On 11 Jan 20, according to NGB/AGP memorandum, Subject: Prior Service Condition Determination, the applicant's condition, hypertrophic cardiomyopathy, was found to be a congenital condition; therefore, not connected to military service duties or any physical performance connected to military duties; with administrative Line of Duty (LOD) determination of "Not in the Line of Duty."

On 23 Jul 20, according to *Statement of Selection (Non-Duty DES),* the applicant elected: "I desire to enter into the Disability Evaluation System (DES). I understand that my case is non-

duty related and that it will be for a Fitness determination only. NGB/SG will review the case to determine if an Assignment Limitation Code (ALC) stratification needs to be placed in the Personnel Data System (PDS) or if case needs to be referred to the Physical Evaluation Board (PEB). The applicant underlined "non-duty related" and annotated that he disagreed with this verbiage.

On 8 Jun 21, according to AF Form 469, the applicant had fitness, duty, and mobility restrictions due to a medical defect/condition that required Medical Evaluation Board or Physical Evaluation Board processing.

On 9 Jun 21, according to AF Form 1185, the applicant had not drilled with the unit for at least seven years and was not recommended for retention.

On 11 Jun 21, according to *Medical Evaluation Board Narrative Summary*, the applicant was diagnosed with Obstrutctive Hypertrophic Cardiomyopathy, with date of initial onset of Dec 14. The applicant has never attended drill or completed a fitness assessment (FA) due to his condition.

On 21 Jul 21, according to NGB/A1PS memorandum, a Request for Non-Duty Related Disability Evaluation System (DES) Fitness Determination, for the applicant, was submitted to the Air Force Personnel Center.

On 2 Aug 21, according to AF Form 356, *Findings and Recommended Disposition of USAF Physical Evaluation Board (Informal),* the applicant was diagnosed with Hypertrophic Obstructive Cardiomyopathy; it was found to be unfitting, not compensable, and permanent and stable.

On 22 Mar 22, according to *Medical Evaluation Board Narrative Summary Addendum*, the applicant's congenital condition is permanent and not expected to change to the degree that would allow for safely training him for his duty Air Force Specialty Code (AFSC).

On 28 Jun 22, according to AF Form 356, *Findings and Recommended Disposition of USAF Physical Evaluation Board (Formal),* the applicant was diagnosed with Hypertrophic Obstructive Cardiomyopathy; it was found to be unfitting, not compensable, and permanent and stable. He was also diagnosed with Anxiety and Insomnia, conditions that can be unfitting, but are not currently unfitting.

On 2 Aug 22, according to SAF/MRBP memorandum, Subject: Line of Duty Determination Appeal, the Air Force Personnel Board considered the applicant's appeal of the finding of Not In the Line of Duty (NILOD) for his condition of Hypertrophic Obstructive Cardiomyopathy, and concluded there was insufficient evidence to warrant overturning the previous NILOD determination for this condition.

On 7 Oct 22, according to NGB Form 22, *National Guard Report of Separation and Record of Service*, provided by the applicant, he was furnished an honorable discharge, with Authority and Reason: AFI 36-3209, paragraph 3.12.4.1., Medically Unqualified for Further Military Service, SPD: GFV [Condition, Not a Disability], and credited with 9 years total service for retired pay.

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

AIR FORCE EVALUATION

BCMR Medical Advisor recommends denying the application. After an extensive review of the available records, this medical advisor remains in concurrence with the findings from the National Guard Bureau (NGB) Surgeon's office, as well as the Informal PEB and Formal PEB, in citing a genetic condition not permanently aggravated by service, found as not in the line of duty, disqualifying for retention as per the Medical Standards Directory (MSD), and found unfitting, respectively.

It appears the major focus of concern, and what appears to be in the applicant's mind an injustice, was both the NGB Surgeon's finding the Hypertrophic Obstructive Cardiomyopathy a congenital condition as well as his current commander noting his condition as being not in the line of duty. According to the American Heart Association, Hypertrophic Cardiomyopathy is most often inherited and is the most common form of genetic heart disease. It can happen at any age, but most receive a diagnosis in middle age. The condition is most often caused by abnormal genes in the heart muscle. These genes cause the walls of the heart chamber (left ventricle) to become thicker than normal. The thickened walls may become stiff, and this can reduce the amount of blood taken in and pumped out to the body with each heartbeat. Some individuals with Hypertrophic Cardiomyopathy do not have symptoms, while others may only feel symptoms with exercise or exertion. Some people may not have signs or symptoms in the early stages of the disease but may develop them over time. The Centers for Disease Control and Prevention has cited that while some individuals with Hypertrophic Cardiomyopathy are very sick, many individuals, especially children, teens, and young adults, have no or few symptoms and may not even know they have a heart problem. This case is consistent with both the applicant or his medical providers prior to military service not knowing that a genetic heart condition even existed.

Although there was no personal statement, authored by the applicant, submitted with his application, his remarks written within the Commander's Impact Statement (CIS) clearly spelled out his desired outcome of becoming "medically discharged with a medical retirement" for his disqualifying [cardiac] condition that… "manifested while performing the fitness test." This advisor concurs with the applicant's comment of, "There are no previous records of me having any heart conditions prior to Jun 14." However, as explained above, the condition of Hypertrophic Cardiomyopathy itself is known to be genetically linked by abnormal gene expression and therefore, the underlying nidus of his cardiac condition was always present [existed prior to service - EPTS], but not outwardly expressed until Jun 14.

The applicant himself made a statement that indeed his condition was congenital when he authored in the CIS that "I incurred this injury (aggravation to congenital heart condition) while performing a fitness test." Having identified that his condition was congenital and EPTS, the question remains if his condition was "aggravated" by military service? Department of Defense Instruction (DoDI) 1332.18, *Disability Evaluation System*, dated 5 Aug 14, which was in effect at the time of his separation, defines "service aggravation" as "The permanent worsening of a pre-Service medical condition over and above the natural progression of the condition." As "aggravation" has been claimed by the applicant, this advisor finds it imperative to note the difference in two terms that are frequently utilized in medical documentation; they are aggravation and exacerbation. Both terms are used to describe situations in which a pre-existing medical condition is affected by a new event or injury. A pre-existing condition is considered "exacerbated" when it is made temporarily worse by the new event or injury, but the individual will at some point return to or towards the same physical condition prior to the worsening event. On the other hand, if the pre-existing condition has been made permanently worse by the subsequent event or injury, the pre-existing condition is said to have been aggravated. Briefly summarized, exacerbation means that, after some time, the condition in question will re-turn to its baseline status. Aggravation means that the underlying condition is permanently worsened

because of a subsequent event or injury. Armed with the known variation of Hypertrophic Cardiomyopathy symptoms, coupled with the evidence of cardiac normalization of function as noted on his cardiology follow-up on 8 Jul 20, a permanent worsening (DoDI defined as "service aggravation") was not evidenced in this case.

The known natural progression of the pre-existing cardiac condition, coupled with separate future follow-up encounters of cardiac function normalization, would not liken to permanent worsening as necessary for service aggravation. The burden of proof is placed on the applicant to submit evidence to support his contentions/request. The evidence he did submit were assessed to not support his request for a favorable LOD determination, or that of service aggravation, and was insufficient to demonstrate the existence of an applied error or calculated injustice. Therefore, this advisor finds no compelling basis to recommend granting the relief sought in this application.

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 Sep 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 the BCMR Medical Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant's congenital cardiac condition, Hypertrophic Obstructive Cardiomyopathy, existed prior to service and was not service-aggravated; therefore, it was not considered occurring In the Line of Duty and compensable. Additionally, his diagnoses of Anxiety and Insomnia were not found to be unfitting for continued military service. Therefore, the Board 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 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-2023-00459 in Executive Session on 5 Dec 23:

, Panel Chair
, Panel Member

, Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 9 Jan 23.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, BCMR Medical Advisor, w/atch, dated 28 Aug 23.
Exhibit D: Notification of Advisory, SAF/MRBC to Counsel, dated 25 Sep 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.

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Board Operations Manager, AFBCMR