



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-2023-01116

Work-Product

COUNSEL:

Work-Product

HEARING REQUESTED: YES

APPLICANT'S REQUEST

She be given a medical retirement.

APPLICANT'S CONTENTIONS

At the time of her separation, she had a disqualifying medical condition that interfered with her ability to perform her duties. While her medical condition of ulcerative colitis was ultimately disqualifying for service, her mental health condition of General Anxiety Disorder (GAD) was both service-related and unfitting at the time of her separation. Upon her return from her deployment in 2014, she should have been sent to a Medical Evaluation Board (MEB) before she was released from active duty but this process was not started until 2017. At the time, she exhibited signs of GAD and Post-Traumatic Stress Disorder (PTSD). Five months after her deployment, she was found non-deployable and had problems reintegrating into society indicating she was experiencing social and occupational impairments which the Department of Veterans Affairs (DVA) would have rated at 30 percent. Had the military followed the proper procedures after her deployment, she would have been placed on the Temporary Disability Retired List (TDRL) because her condition was unstable and she would have eventually been permanently retired with a 100 disability rating for her GAD. Despite the clear evidence of her serious mental health issues, the initial review in lieu of (IRILO) only mentions the issue of anxiety in passing and determined it was related to her ulcerative colitis. She was not assigned a Physical Evaluation Board Liaison Officer (PEBLO) which resulted in an incomplete narrative summary (NARSUM), Medical Questionnaire, and medical file being presented to the board. Due to this, her GAD was not properly evaluated by the board.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force Reserve (AFR) master sergeant (E-7) awaiting retired pay at age 60.

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Controlled by: SAF/MRB
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Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

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On 28 Jul 14, DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects the applicant was honorably discharged after serving 8 months and 13 days of active duty. She was discharged, with a narrative reason for separation of “Completion of Required Active Service.”

On 15 Mar 17 and again on 11 Dec 17, letters, provided by the applicant, from her medical unit indicates she was found temporarily medically disqualified informing her she had 60 days to provide additional medical evidence.

On 23 Mar 18, IRILO NARSUM, provided by the applicant, indicates she had a potentially unfitting diagnosis of ulcerative colitis and anxiety. It is noted her degree of improvement will continue to wax and wane based on her symptoms and it is unlikely she will return to full health status where she could deploy again.

On 26 Sep 18, a IRILO Disqualification letter, provided by the applicant, indicates she was found medically disqualified (diagnosis of ulcerative colitis not in remission), for continued military service and will require a non-duty related worldwide duty (WWD) case to be submitted to determine her fitness for continued service.

Dated 14 Dec 18, the DVA Rating Decision letter, provided by the applicant, proposed a disability rating for her service-connected medical condition of GAD at 30 percent, effective 11 Feb 17.

On 6 Mar 19, a letter, provided by the applicant, from the Physical Evaluation Board (PEB) Reserve Separations Branch indicates she was medically disqualified for her medical condition of other ulcerative colitis with unspecified complications and was referred into the Disability Evaluation System (DES) for a fitness determination only.

On 12 Mar 19, AF Form 356, *Informal Findings and Recommended Disposition of USAF Physical Evaluation Board*, provided by the applicant, indicates she was found unfit due to her medical condition of ulcerative colitis with a recommendation of “Unfit.” Her unfit condition was found to not have incurred while entitled to receive basic pay nor found in the line of duty. In the remarks, the board referenced the NARSUM comments indicating the applicant had GAD which stated, “This condition clearly results in frequent recurrent duty limitations, continuing mental health support, unsatisfactory performance of duties, and she has remained non-deployable for at least two years.” The board further notes GAD may also be unfitting for service but was not forwarded for consideration as a potentially disqualifying condition.

Dated 3 Apr 19, Reserve Order **Work-Product** provided by the applicant, indicates she was assigned to the retired Reserve section and placed on the Retired Reserve List (RRL) due to a physical disqualification, effective 2 May 19.

On 24 Nov 21, ARPC/DPTT sent the applicant the standard Notification of Eligibility for retired pay (20-year letter) informing her that she has completed the required years under the provisions of Title 10 United States Code, Section 12731 (10 U.S.C § 12731), and is entitled to retired pay upon application prior to age 60.

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

APPLICABLE AUTHORITY/GUIDANCE

AFI 36-2910, *Line of Duty (LOD) Determination, Medical Continuation (MEDCON), and Incapacitation (INCAP) Pay*, paragraph 1.7.3, states for Air Reserve Component (ARC) members to enter into the DES for a duty-related determination, the member must have received an ILOD determination for his/her potentially unfitting condition(s). After release from active duty or Inactive Duty Training (IDT), members have 180 days to ensure any illness, injury or disease that was incurred or aggravated while in a duty status is reported for LOD determination consideration. When the member does not report his/her illness, injury or disease, the member is presumed to be able to perform military duties, does not require treatment and has no unresolved health condition rendering the member unable to meet retention or mobility standards per AFI 48-123, *Medical Examinations and Standards*. The only avenue for addressing previously unreported illness, injury or disease is through the DVA.

AIR FORCE EVALUATION

AFRC/SGP recommends denying the application finding no evidence of an error or injustice since the applicant declined a Formal Physical Evaluation Board (FPEB) hearing for her case. The applicant was informed of the Informal Physical Evaluation Board (IPEB) findings; she accepted the IPEB findings and did not elect to have her case reviewed by the FPEB. The applicant agreed with the IPEB findings and clearly declined a FPEB hearing, which was her chance to refute any aspects of concern she had regarding her medical case processing. Furthermore, based on the comments provided by the DVA Mental Health Provider, dated 10 Aug 17, the applicant's anxiety concerns were not deemed duty-related; therefore, no line of duty determination actions would have been considered appropriate.

The complete advisory opinion is at Exhibit C.

ARPC/DPTT recommends denying the application finding no evidence of an error or injustice. The evidence submitted in the applicant's medical review package was reviewed by AFRC/SG and only forwarded by ARPC/DPTTS to AFPC. The final determination of the unfitting conditions was made by the IPEB. On 21 Feb 19, AFRC/SG submitted to ARPC/DPTTS all content required for administrative processing and action. On 6 Mar 19, ARPC/DPTTS administratively formatted all content in the applicant's medical records in preparation for the IPEB at AFPC. The IPEB team of doctors determines unfit circumstances, which are then recorded on the AF Form 356. The ARPC/DPTTS team does not determine which unfitting conditions or documents are inserted into a member's medical records for review by the IPEB team. Line of Duty (LOD) determinations are also examined by AFRC/SG rather than ARPC/DPTTS.

The complete advisory opinion is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 8 Aug 23 for comment (Exhibit E) 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 recommendations of AFRC/SGP and ARPC/DPTS and finds a preponderance of the evidence does not substantiate the applicant's contentions. Specifically, the Board finds no error or injustice occurred with the processing of the applicant's disability case. The Board notes the applicant's contention her mental health condition should have been found unfit by the PEB; however, the applicant's mental health condition of anxiety was not deemed duty-related; therefore, no line of duty determination actions would have been considered appropriate. The mere existence of a medical diagnosis does not automatically determine unfitness and eligibility for a medical separation or retirement. For duty-related determinations, the applicant must have received an ILOD determination for her potentially unfitting conditions. Furthermore, a higher rating by the DVA, based on new and/or current exams conducted after discharge from service, does not warrant a change in the total compensable rating awarded at the time of the member's separation. 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. 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-2023-01116 in Executive Session on 26 Jul 23 and 25 Oct 23:

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

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 11 Sep 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.

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Exhibit C: Advisory Opinion, AFRC/SGP, dated 18 Jul 23.

Exhibit D: Advisory Opinion, ARPC/DPTT, w/atchs, dated 20 Jul 23.

Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 8 Aug 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.

2/6/2024

Work-Product

Board Operations Manager, AFBCMR

Signed by: *Work-Product*