

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01143

XXXXXXXXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NOT INDICATED

APPLICANT'S REQUEST

1. His records be corrected to show his post-traumatic stress disorder (PTSD) was exacerbated by his exposure to combat while deployed.
2. His arthritis, fibromyalgia and migraines resulted in him being placed in an administrative role.

APPLICANT'S CONTENTIONS

The Air Force Physical Evaluation Board (PEB) memorandum dated 22 Mar 23 includes errors. He requests it be corrected to show he is currently engaged in therapy and taking proper medications, his PTSD and depression were exacerbated by his military service in combat and seeing the loss of lives. He received a 70 percent disability rating from the Department of Veterans Affairs (DVA) for his PTSD, with alcohol use disorder and traumatic brain injury (TBI). His AF Form 1185, *Commander's Impact Statement for Medical Evaluation Board (MEB)*, reflects he missed 30 duty days due to his medical conditions; however, this was sick leave from his federal technician position and not military drill. His records should state his PTSD was due to combat exposure while deployed and his symptoms appeared shortly after returning from deployment. He would like his records to reflect he likes working with his hands but his illnesses required him to be placed in an administrative role, which he does not enjoy.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a staff sergeant (E-5) in the Air National Guard (ANG).

The applicant served in the Regular Army from 7 Oct 03 to 6 Oct 09 and was honorably released from active duty for completion of required active service. He subsequently served in the Army National Guard.

The applicant provides mental health records. A medical progress note dated 13 Apr 15 reflects the applicant contacted the mental health clinic requesting an appointment. He reported he had suicidal ideations two weeks prior and had given his guns to a friend. It also documented his cutting his wrists at age 10. A medical progress note dated 17 Apr 15 reflects he was abused by his father and witnessed his father hurt his mother. He also experienced combat, to include seeing dead bodies. He placed a gun to an enemy's head and also had a knife pulled on him. The applicant was diagnosed with PTSD and depression.

Per the military personnel data system (MilPDS), the applicant transferred to the ANG effective 17 Aug 19.

The NGB/SGPS Prior Service Condition (PSC) Determination Memorandum, dated 22 Mar 23 reflects his diagnosis for PTSD, major depressive disorder (MDD), osteoarthritis (OA) of the right wrist, OA of bilateral hips and chronic pain syndrome to be PSC not applicable. The review of his DVA mental health records showed he had a history of PTSD due to childhood abuse and possibly also due to combat exposure while deployed with the Army to Iraq and Afghanistan from 2005 to 2008. However, the records did not indicate he had mental health issues due to the deployments. There was no indication his PTSD or depression was caused or worsened by his military service or was duty limiting; therefore, depression and PTSD are not applicable. The memorandum includes statements he missed several drill days due to medical appointments and he was unable to engage in therapy because of his work schedule. It also states a possible TBI in 2008; however, it was unlikely and there was no evidence in his records his chronic pain and OA were due to the performance of military duties. Therefore, his OA for right wrist and bilateral hips and chronic pain syndrome were determined to be PSC not applicable. It was recommended he be processed through the physical evaluation board (PEB) via the Non-Duty Disability Evaluation System (NDDDES).

The MilPDS reflects his current Air Force Specialty Code 2A353M, Tactical Aircraft Maintenance.

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

AIR FORCE EVALUATION

NGB/SGPS recommends denial. The applicant was treated while on active duty in the Army for mental health conditions and was diagnosed with PTSD and MDD by the DVA. He remained medically stable to continue serving as well as transfer into the Army and Air National Guard. The DVA clinical notes indicate his PTSD and MDD are related to his childhood abuse/trauma, relationship distress and not aggravated or exacerbated by any intervening event while in a qualified duty status. There is also no supporting medical documentation for service connected OA of right wrist, OA of bilateral hips and chronic pain syndrome.

The applicant met the required medical standards to transfer into the Army National Guard on 20 May 11 after serving on active duty. Based on the medical documentation provided, he has been receiving treatment from the DVA since 2015 for his mental health conditions. The DVA notes do not indicate his PTSD and MDD were aggravated by his deployment. There is no medical documentation validating any service connected intervening event while the applicant was in a duty status that aggravated or exacerbated his childhood PTSD and MDD. The NGB also did not find his mental health conditions to be potentially unfitting at the time of review. There is also no supporting documentation to show his OA of the right wrist and bilateral hips or chronic pain syndrome were incurred during a previous period of active service or that they were aggravated/exacerbated beyond natural progression while in a qualified duty status.

The Disability Evaluation System (DES) by law, under 10 U.S.C. can only offer compensation for service incurred diseases or injuries which specifically rendered a member unfit for continued 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 future progression of injury or illness. The DVA operates under a different set of laws, 38 U.S.C., and 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 service member's retainability, fitness to serve or the length of time since date of discharge. The applicant currently has a combined disability rating of 100 percent from the DVA for multiple service connected disabilities. His rating for service connected PTSD is 70 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 8 Aug 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 NGB/SGP and finds a preponderance of the evidence does not substantiate the applicant's contentions. While the applicant contends his PTSD was due to his combat service and his OA was incurred during a prior period of service and was aggravated while in a qualified duty status, he has not sustained his burden of proof to warrant granting the requested relief. The applicant's DVA service connection conditions remain separate from his service disability as it pertains to military impairment ratings. The applicant is reminded the military's DES can by law, under 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. With respect to the applicant's request his records be amended to show his medical conditions resulted in him being placed in administrative roles rather than working with his hands, the Board is unable to grant the applicant's request. It is not possible for the Board to know the reasons why the applicant may have been assigned administrative duties over working with his hands. Moreover, the Board notes the applicant's supervisor and chain of command are in the best position to determine the assignment of duties and responsibilities of assigned airmen. 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-2023-01143 in Executive Session on 27 Sep 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 15 May 23.

Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, NGB/SGP, dated 27 Jul 23.
Exhibit D: 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.