



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01430

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

She be given a medical retirement.

APPLICANT'S CONTENTIONS

She should be given a medical retirement with at least a 30 percent disability impairment rating for her chronic asthma condition because there is a lack of medical and/or scientific proof she had asthma prior to her military service. A civilian Pulmonary Specialist stated it was virtually impossible to describe a timeline with appropriate accuracy and in most cases of asthma, over 70 percent did not have a specific trigger period or origin, and her asthma was never previously so advanced enough to where it could be diagnosed at an earlier date during her service. Due to this, the Medical Evaluation Board (MEB) and/or the Physical Evaluation Board (PEB) failed to thoroughly review her case wherein the nature and science of her disability was apparent, and the decision was arbitrary and capricious because the decision relied on facts not present in the record. Furthermore, the AFI at the time held, if medical authorities are not in universal agreement and if one could not say exactly when her condition occurred, the benefit of doubt goes to the service member. In addition to medical documentation and character reference letters attesting to her job performance while in service and other military records, the applicant submitted her Department of Veterans Affairs (DVA) disability rating letter dated 1 Nov 22 which indicates the DVA granted her a 30 percent service-connected disability rating for asthma with an effective date of 22 Jul 22.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman first class (E-3).

Dated 24 May 04, the Narrative Summary (NARSUM) for the Medical Evaluation Board (MEB) indicates the applicant had a history of bronchial asthma diagnosed by a civilian institution in Feb 04. Her chief complaint is listed as shortness of breath for one year, persistent since one year ago, increased with exercise activities.

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

On 24 Jun 04, AF Form 618, *Medical Board Report*, indicates the applicant was referred to the Informal Physical Evaluation Board (IPEB) for small airway dysfunction, most likely bronchial asthma origin.

On 29 Jun 04, the applicant submitted a letter to the MEB indicating a discrepancy with the NARSUM when it indicated she had a history of bronchial asthma stating she did not have any prior symptoms, nor had she ever been diagnosed with any signs of asthma until 26 Feb 04 but rather had a recent history of bronchial asthma from Jun 03 through Nov 03 which still persists.

Dated 3 Jun 04, in the Commander's Impact Statement (CIS) it is recommended the applicant be separated due to medical reasons and lack of self-motivation to remain in the Air Force noting the applicant made it publicly known she disliked her career field and would do whatever it took to disqualify herself from being proficient.

On 20 Jul 04, AF Form 356, *Informal Findings and Recommended Disposition of USAF Physical Evaluation Board*, indicates the applicant's condition of asthma was found to have existed prior to service (EPTS) without service aggravation with a recommendation of "Discharge under other than Chapter 61, Title 10 U.S.C. (EPTS)." The board noted the onset of her symptoms occurred while in Basic Military Training (BMT) and found the 180-day rule applied to the applicant.

On 20 Aug 04, AF Form 1180, *Action on Physical Evaluation Board Findings and Recommended Disposition*, indicates the applicant disagreed with the findings of the board and requested a formal hearing.

On 3 Dec 04, AF Form 356, *Formal Findings and Recommended Disposition of USAF Physical Evaluation Board*, the applicant's condition of asthma was found to have existed prior to service (EPTS) without service aggravation with a recommendation of "Discharge under other than Chapter 61, Title 10 U.S.C. (EPTS)." The board noted the applicant's contention she did not have breathing problems prior to military service; however, found a 17 Jul 03 treatment note indicating she had increased shortness of breath during exercise since her arrival at BMT and had limited physical activities prior to her military service and extensive involvement in vocal training/exercises which are frequently used to treat asthma like conditions.

On 3 Dec 04, AF Form 1180, indicates the applicant disagreed with the findings of the board and requested a desire to submit a rebuttal. In her rebuttal, she contended she should be awarded a discharge with severance pay (DWSP) at a 20 percent rating. The board determined her asthma was a direct result of training exercises; however, she stressed she had always maintained an active and healthy lifestyle, participating in tennis/racquet sports, water aerobics, power walking, sprinting, and chorus.

On 6 Jan 05, the Secretary of the Air Force Personnel Counsel (SAFPC) found the applicant's condition was not in the line of duty and EPTS without service aggravation. The board considered the applicant's rebuttal and evidence submitted; however, did not find it compelling enough to overturn the previous boards' decisions. The board considered the possibility her symptoms, such as the shortness of breath and chest tightness she experienced during her third week of BMT, may

have first begun following her entry on active military service; noting her reported capacity to participate in a variety of athletic activities prior to entering military service without physical impairment. However, utilizing sound medical principles, the board opined the sustained physical exertion, as required in BMT, likely presented the right level of sustained intensity that it triggered a broncho reactive response. Secondly, although her symptoms may have become more manifest during her exposure to a humid climate, the board opined this variable environmental factor alone is an insufficient basis to apply permanent service aggravation. Therefore, the Board opined the applicant's predisposition for the expression of her respiratory ailment, so soon after entering military service, makes it highly unlikely her medical condition first began following her entry on active military service.

On 4 Mar 05, DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects the applicant was honorably discharged in the grade of airman first class (E-3) after serving one year, nine months, and two days of active duty. She was discharged, with a narrative reason for separation "Disability Existed Prior to Service, PEB."

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 recommends denying the applicant's request for a medical retirement due to asthma, finding no evidence an error or injustice occurred on behalf of the DoD in processing her discharge. After a thorough review of the available and submitted records, the Medical Advisor opines the applicant's respiratory condition did exist prior to service, both by her own words and sound medical principles by an abrupt increase in exercise to a sustained and intense level which triggered such adverse symptoms. Her fitness assessments which revealed extremely little improvement with bronchodilator medication only solidified she indeed had a predisposition to asthma-type symptoms when exposed to sustained physical activity.

At first glance, this case appears simplistic in that an unfitting physical condition was present while the applicant was on active duty and official board proceedings found the condition EPTS and was not service aggravated, but was service connected by the DVA, and thereby, the DoD should parallel the DVA's rating of 30 percent equating to a military medical retirement. However, under different laws, a post-service DVA rating is not synonymous or equivalent to the military's disability evaluation near the time-of-service separation. According to the National Library of Medicine in coordination with Baylor University Medical Center, *Dispelling the Myths of Exercise and Asthma*, the widely used term "exercise-induced asthma" represents a misnomer: except in a very specific circumstance, exercise does not cause asthma but rather triggers asthmatic symptoms. Classic exercise-triggered asthma usually occurs after vigorous exertion. Appearing immediately after cessation of as little as 6 to 8 minutes of intense exercise activity, symptoms may require 30 to 60 minutes to resolve.

The Medical Advisor reviewed all personnel documents, personal and character statements, and all available medical records and concurs with the sound medical principles of sustain intensity of

exercise triggering an adverse respiratory response as noted in the above citation. In addition to this principle, a major fact in this case also came directly from the applicant herself in stating to the NARSUM provider in Apr 04 she had experienced for the past year a persistent sensation of shortness of breath, chest tightness, and decreased capacity to cope with the stress of exercise. In the past year would be since Apr 03, a date prior to her service enlistment.

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 Jan 24 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 recommendation of the AFBCMR Medical Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. Specifically, the Board finds the applicant's respiratory medical condition existed prior to service without service aggravation due to her predisposition to asthma-type symptoms when exposed to sustained physical activity. Additionally, a rating by the DVA, based on new and/or current exams, does not warrant a change to the applicant's reason for separation. The DVA can offer compensation for any medical condition with an established nexus with military service, without regard to its impact upon a member's fitness to serve, the narrative reason for release from service, or the length of time transpired since the date of discharge. However, 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. 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.

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-2023-01430 in Executive Session on 21 Feb 24:

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 9 Dec 22.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory Opinion, AFBCMR Medical Advisor, w/atch, dated 27 Dec 23.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 3 Jan 24.

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.

3/8/2024

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Board Operations Manager, AFBCMR
Signed by: USAF