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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01867

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His lower back and lower extremity injuries be assessed as combat-related in order to qualify for compensation under the Combat-Related Special Compensation (CRSC) Act.

APPLICANT'S CONTENTIONS

At the time of his CRSC application, there was no clear established guidelines regarding proper submission for CRSC such as organization of events relating to factors contributing to combat-related injuries. Therefore, denying his claim is unjust. His lower back and extremity injuries were sustained while on active duty and were directly related to simulating war exercises.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force technical sergeant (E-6).

On 28 Feb 95, DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects the applicant was honorably discharged in the grade of technical sergeant (E-6) after serving 20 years, 4 months, and 24 days of active duty. He was discharged, with a narrative reason for separation of "Retirement."

On 1 May 04, DD Form 2860, *Application for Combat-Related Special Compensation (CRSC)*, indicates the applicant applied for CRSC noting his back condition and knee injury were established as directly related to his military service due to hazardous service. He states he was loading and unloading readiness materials into a military vehicle in 1995 and in 1977, during a two-day readiness exercise, he slipped and fell on his lower tailbone which caused his lower back injury. He additionally states while deployed to a remote overseas location in 1989, he injured his left knee while running on concrete while carrying his military gear.

On 3 Jun 04, the applicant's request for CRSC was disapproved finding his traumatic arthritis (lumbar spine) and his left knee condition did not qualify as combat-related injuries. It is noted

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loading, unloading, and heavy lifting are not considered combat-related, and running across a concrete ramp is not considered a combat activity. His disabilities failed to meet the criteria established for favorable consideration under the provisions of performance of duty under conditions simulating war, instrumentality of war, actual combat, hazardous service, or other CRSC categories.

On 22 Apr 16, DD Form 2860 indicates the applicant reapplied for CRSC noting his lower back, chronic lumbar strain with degenerative arthritis and left and right knee radiculopathy with degenerative joint disease were due to the performance of duty under conditions simulating war. He states his injuries were due to exercises in preparation for deployment, simulated war game scenario, treating wounded, setting up and tearing down triage, field medical facilities, boarding and deboarding aircraft, marching and running during simulated hostile fire and to access runway damage, jumping into trenches, and taking cover from aerial assaults.

On 20 May 16, the applicant's request for CRSC was disapproved finding his lumbosacral or cervical strain (lumbar), knee condition (right), limited extension of knee (right), inflammation of sciatic nerve (right lower), paralysis of sciatic nerve (left lower), and knee condition (left) did not qualify as combat-related injuries. It is noted, clear documentation must be provided to indicate an injury/disability occurred and/or was caused by a specific combat-related factor rather than from routine causes or from a particular physical make-up. His claim and documentation received contained no definitive evidence to confirm these disabilities were the direct result of a combat-related event.

On 30 Nov 16, the applicant requested reconsideration for CRSC stating his injuries/disabilities were sustained from simulated war conditions and are greatly impacting his activities of daily living. He goes on to explain his various injuries he sustained during various wartime readiness training exercises.

On 19 Jan 17, the applicant's reconsideration request for CRSC was disapproved for his right knee, left knee, and lower back injuries. The board was unable to identify a combat-related event as the cause of his injuries. It is noted, the fact that a member incurred a disability during a period of simulating war or in an area of simulated armed conflict or while participating in simulated combat operations is not sufficient by itself to support a combat-related determination. There must be a definite, documented, casual relationship between the simulated armed conflict and the resulting disability.

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

AIR FORCE EVALUATION

AFPC/DPFDC recommends denying the application finding no evidence of an error or injustice. Documentation submitted by the applicant has been reviewed and there was no evidence provided that would support approval of his CRSC request. Injuries from lifting, pushing, pulling, moving, climbing, wearing heavy equipment, or falls are not unique to military service or combat situations;

therefore, to qualify for CRSC, some combat-related event must have occurred that caused or aggravated the injury. AFPC/DPFDC can find nothing in the available evidence that would support approval under current CRSC criteria. Additionally, injuries from physical training such as calisthenics, jogging, formation running and supervised sports activities that are required to maintain and evaluate a level of physical fitness are not combat-related.

The fact that a member incurred the disability during a period of war; while serving in an area of armed conflict; and/or while participating in combat operations is not sufficient by itself to support a combat-related determination per 10 U.S.C. Section 1413a and DoD Financial Management Regulation, Vol 7B, Chapter 63, Combat-Related Special Compensation (CRSC). When making combat-related determinations, with regard to Armed Conflict, Hazardous Service, Simulation of War or an Instrument of War, the board looks for definite, documented, causal relationship between the armed conflict and the resulting disability.

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 11 Jun 24 for comment (Exhibit D) and on 25 Sep 24, the applicant requested his case be closed. On 10 Jan 25, the applicant sent in a response and his case was reopened. In his response, the applicant contends he witnessed and participated directly and indirectly in numerous conflicts. Although in a support capacity, he was required to be combat-ready at all times by participating in hands-on combat preparations. He goes on to highlight several combat operations the U.S. military has been involved in while he served.

The applicant's complete response is at Exhibit E.

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 AFPC/DPFDC and finds a preponderance of the evidence does not substantiate the applicant's contentions. Specifically, the Board does not find any of the applicant's injuries, to include his back and lower extremities, meet the criteria for CRSC under conditions simulating war. This category does not include physical training activities, such as calisthenics and jogging or formation running and supervised sports nor does it cover normal military duties such as lifting or carrying military equipment. It covers disabilities sustained due to military training, such as war games, practice alerts, tactical exercises, airborne operations, and leadership reaction courses; grenade and live fire weapons practice; bayonet training; hand-to-hand combat training; rappelling; and negotiation of combat confidence and obstacle courses. His medical records indicate his injuries were due to aerobic exercise and lifting and carrying heavy objects which are not considered combat-related injuries.

The Board reviewed the additional evidence submitted by the applicant claiming he was involved in numerous combat operations/combat training exercises but finds this evidence does not specifically describe how the applicant's injuries were caused by a combat-related event. The fact the applicant incurred the disability during a period of war; while serving in an area of armed conflict; and/or while participating in combat operations is not sufficient by itself to support a combat-related determination for CRSC purposes. The evidentiary standard for CRSC entitlement is the preponderance of objective evidence, requiring official and corroborated documentation to show combat relation. There needs to be evidence that confirms both the injuries and how they occurred (combat-related event) to confirm the disabilities were a direct result of Armed Conflict, Hazardous Service, Simulation of War or an Instrument of War. The Board does not find the evidence submitted by the applicant sufficient to conclude it meets the evidentiary standard for CRSC entitlement. Therefore, the Board recommends against correcting the applicant's records. 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 and finds the application untimely.

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-2023-01867 in Executive Session on 12 Sep 24 and 29 Jan 25:

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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 Jan 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPFDC, dated 14 May 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 11 Jun 24.
- Exhibit E: Applicant's Response, w/atchs, dated 10 Jan 25.

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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.

2/11/2025

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Board Operations Manager, AFBCMR
Signed by: USAF

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