



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02288

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NOT INDICATED

APPLICANT'S REQUEST

He be medically retired.

APPLICANT'S CONTENTIONS

He should be medically retired due to his post-traumatic stress disorder (PTSD) and anxiety sustained from a line of duty (LOD) incident involving the attempted stabbing of a co-worker. His original claim was denied by the Air National Guard (ANG) due to absence of documentation that the stabbing incident occurred. Unfortunately, no report could be found; however, he provides a statement from a former squadron member. The statement from the former staff sergeant (E-5) states during the unit's drill in Aug 20, he was in a classroom with the applicant and other members of the fire station. He had not been with the unit for several days and was unaware a fellow airman did not want to be called by a nickname. When he called him by the nickname, he pulled out a knife and threatened to stab him if he ever called him by the nickname again. The applicant showed immediate concern and the need to report the incident to the squadron and security forces. The only disciplinary action taken against the airman who pulled the knife was that he was prohibited from carrying a knife and that he speak with mental health professionals. They were all forced to continue to work with an unstable individual.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former ANG staff sergeant (E-5).

The applicant performed a period of active duty on Title 32 orders from 7 Dec 20 to 15 Jan 21.

The applicant provides Vet Center summary of treatment dated 17 Feb 22. It states he endorsed subclinical symptoms of PTSD and minimal anxiety symptoms.

The applicant provides Vet Center summary of treatment dated 21 Mar 22. It states his subclinical PTSD symptoms progressed to meet full criteria for PTSD.

The applicant provides the NGB/SGPS Prior Service Condition (PSC) Determination dated 28 Mar 23, which recommended the applicant for further processing through the Physical Evaluation Board (PEB) via the Non-Duty Disability Evaluation System (NDDDES). The applicant's PSC was reviewed in accordance with DoDI 1332.18, *Disability Evaluation System (DES)*, for the diagnosis of PTSD and anxiety. The review determined the conditions to be PSC not applicable. The

AFBCMR Docket Number BC-2023-02288

Work-Product

Controlled by: SAF/MRB

Work-Product

Limited Dissemination Control: N/A

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

applicant reported he was traumatized by two incidents that occurred between Dec 20 and Feb 20 and he now had chronic PTSD and was unable to perform his Air Force Specialty Code (AFSC) duties. The applicant reported he was traumatized when an airman pulled a knife on a fellow airman. The airman was not terminated and it caused him continued stress, fear and worry. The applicant also stated he was traumatized due to exposure to dementia patients and witnessing multiple deaths during his 40 days of Title 32, COVID-19 operational support duty from 7 Dec 20 to 15 Jan 21 at a nursing home. However, the applicant's Deployment Health Assessment (DHA) did not indicate he had any physical or mental health concerns and he reported his excellent health was the same as before he deployed. The applicant's Department of Veterans Affairs (DVA) mental health report from Mar 22 showed the applicant began counseling in Nov 20, which was prior to the traumatizing event. His commander reported he was unable to safely perform his AFSC duties. It was noted the applicant had a diagnosis of anxiety but there was no indication that his mental health condition was caused or worsened by his military duties or service.

On 6 Jun 23, the applicant was honorably discharged from the ANG for reason of physical disqualification. He was credited with 9 years and 9 months of service for the period, 4 years and 4 months of prior active federal service and 15 years, 10 months and 5 days for retired pay.

The DVA Rating Decision dated 5 Dec 23, reflects the applicant's service-connection for Other Specified Trauma and Stressor Related Disorder, which was 50 percent disabling was increased to 70 percent, effective 1 Feb 23. His combined service-connected disability is 90 percent.

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

APPLICABLE AUTHORITY/GUIDANCE

DAFI 36-2910, *Line of Duty (LOD) Determination, Medical Continuation (MEDCON) and Incapacitation (INCAP) Pay*, paragraph 1.6.8.6., To enter the Disability Evaluation System (DES) for a duty related determination, the member must have an in the LOD (ILOD) determination for a referred condition, or meet the eight year rule, or have a PSC that meets the criteria.

Paragraph 1.12.1. For the purpose of DES processing, a PSC is any medical condition incurred or aggravated during one period of active service or authorized training that recurs, is aggravated or otherwise causes the member to be unfit, should be considered incurred ILOD, provided the origin of such condition or its current state is not due to the service member's misconduct or willful negligence or progressed to unfitness as the result of intervening events when the service member was not in a duty status.

Paragraph 1.12.2. A PSC determination would entitle a member to have a MEB and be referred into the DES. If an illness, injury or disease is not considered a PSC, then they would be referred into the NDDDES.

The military's DES, established by law to maintain a fit and vital fighting force 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, and then only for the degree of impairment present at the time of separation and not based on any post-service progression of disease or injury. To the contrary, the DVA, operating under 38 U.S.C., is empowered to 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.

AIR FORCE EVALUATION

AFRBA Psychological Advisor concurs with the NGB/SG's past decision and does not find any error or injustice.

Despite the applicant's mental health encounters, diagnoses and early recommendations for a medical retirement evaluation, the NGB/SGPS determined there was no indication his mental health condition was caused or worsened by his military duties or service. NGB/SGPS, after evaluating the Mental Health Template Medical Evaluation Board (MEB) Narrative Summary (NARSUM), two Vet Center Treatment Summaries, Command Directed Mental Health Evaluation, Commander's Impact Statement for MEB, Duty Limiting Condition Report and the deployment availability working group (DAWG) review in lieu of (IRILO) cover sheet/checklist recommended processing through the PEB via the NDDDES. The applicant later elected to waive the option to enter the DES solely for a fitness determination and was appropriately administratively discharged.

The PSC IRILO coversheet indicated an administrative LOD would be completed by the NGB/SG office if the case was found to be linked to a period of service. While the applicant submitted a letter that documented the attempted stabbing incident, this alone is not sufficient to establish a LOD. The applicant has not supplied an official record of the contended incident, nor is there a record of the incident in his military record. To consider any incident LOD, the regulation requires that it be formally approved. The 28 Mar 23 PSC Determination found the conditions to be PSC not applicable.

The applicant stated he was also traumatized due to exposure to dementia patients and witnessing multiple deaths during his 40 days of Title 32 COVID operational support duty from 7 Dec 20 to 15 Jan 21 at a nursing home. However, the applicant's DHA #2 did not indicate he had any physical or mental health concerns and he reported excellent health that was the same as before he deployed. Additionally, the applicant's DVA Mental Health report from Mar 22 stated he began counseling in Nov 20 at the DVA, which was prior to his traumatizing event. Further, the applicant on 21 Apr 21 signed his annual periodic health assessment (PHA) and noted on the mental health section he did not encounter dead bodies or see people killed or wounded during his deployment. He reported his health over the past month as excellent and he was released without limitations. The applicant's aeromedical service information system (ASIMS) record shows the applicant had a diagnosis of anxiety but there was no indication that the mental health condition was caused or worsened by his military duties or service. The applicant continues to work as a civilian firefighter. He is 90 percent service-connected by the DVA, 70 percent for Neurosis.

Liberal consideration is not applied to the applicant's request because this policy does not apply to requests for medical discharge/retirements.

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 10 Jan 24 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 of the AFRBA Psychological Advisor and the NGB/SGPS past decision in the PSC determination and finds a preponderance of the evidence does not substantiate the applicant's contentions. While the applicant submitted a letter that documented the attempted stabbing incident, this alone is not sufficient to establish an LOD. The applicant has not submitted an official record of an LOD incident. 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-2023-02288 in Executive Session on 17 Apr 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 20 Jul 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFRBA Psychological Advisor, dated 9 Jan 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 10 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.

4/25/2024

Work-Product

Board Operations Manager, AFBCMR
Signed by: USAF

AFBCMR Docket Number BC-2023-02288