



Work-Product

## UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03436

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

### APPLICANT'S REQUEST

His not in line of duty (NILOD) determination for diabetes be found in line of duty (ILOD).

### APPLICANT'S CONTENTIONS

He was diagnosed with diabetes while he was deployed to Work-Product when he received a series of blood tests which indicated possible diabetes in Jan 10. He had no prior indication in his records of this disease; however, on his AFRC IMT 348, *Informal Line of Duty Determination*, it was noted his condition of Diabetes Mellitus Type II existed prior to service (EPTS). This is hindering him from receiving Department of Veterans Affairs (DVA) compensation. He was also told he should had been on medical hold orders while his line of duty (LOD) determination was being processed.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

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

On 24 Mar 10, DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects the applicant was honorably discharged after serving 4 months and 23 days of active duty in support of Operation Work-Product while being deployed to Work-Product from 18 Nov 09 to 24 Feb 10. He was discharged, with a narrative reason for separation "Completion of Required Active Service."

Report date 30 Nov 10, AFRC IMT 348, provided by the applicant, indicates he reported to the hospital on 17 Jan 10, while he was deployed and received a series of blood tests which indicated possible diabetes. It is noted in section 5, *Medical Section*, his disease was marked no for EPTS with a note stating complete military record reviewed and no finding of prior history of diabetes. In the *Recommended Findings* section, it is noted his condition EPTS-LOD not applicable with concurrence from the staff judge advocate and the appointing authority.

AFBCMR Docket Number BC-2023-03436

Work-Product

Controlled by: SAF/MRB  
CUI Categories: Work-Product  
Limited Dissemination Control: N/A  
POC: [SAF.MRBC.Workflow@us.af.mil](mailto:SAF.MRBC.Workflow@us.af.mil)

Dated 22 Oct 21, Reserve Order Work-Product indicates the applicant was assigned to the retired Reserve, effective 1 Nov 21.

On 6 Jan 22, ARPC/DPTT sent the applicant the standard Notification of Eligibility for retired pay informing him he completed the required years under the provisions of Title 10 U.S.C., Section 12731 and is entitled to retired pay upon application prior to age 60.

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

#### **APPLICABLE AUTHORITY/GUIDANCE**

Per policy memorandum from SAF/MR, dated 9 Dec 11, *Eligibility for Medical Continuation (MEDCON)*: The Air Reserve Component (ARC) member will be eligible for MEDCON orders when an injury, illness, or disease is incurred or aggravated while serving on active duty and that condition renders the member unable to perform military duties. The finding of "unable to perform military duties" shall be predicated on a medical evaluation by a credentialed military health care provider who determines the member has an unresolved health condition requiring treatment or affecting performance and which renders the member unable to meet accession, mobility, retention, or general fitness for duty standards as set forth in AFI 48-123, *Medical Examinations and Standards*.

AFI 36-2910, *Line of Duty (Misconduct) Determination*, 4 Oct 02, incorporating changes through 5 Apr 10, paragraph 1.9, states for LOD determinations, one of the following four findings will be applied to the member's illness, injury, disease or death:

- (1) ILOD-the illness, injury, disease or death did not occur while the member was absent without authority and was not due to the member's own misconduct. For ARC members, the illness, injury, disease or its aggravation, or death occurred while the member was in a duty or direct travel status and was not due to the member's own misconduct.
- (2) EPTS, LOD Not Applicable-a medical diagnosis determined the death, illness, injury or disease, or the underlying condition causing it, existed before the member's entry into military service or between periods of service and was not aggravated by service. Further LOD determination is not required.
- (3) NILOD -Not Due to Own Misconduct-a formal investigation determined the member's illness, injury, disease, or death occurred while the member was absent from duty.
- (4) NILOD -Due to Own Misconduct-a formal investigation determined the member's illness, injury, disease, or death was proximately caused by the member's own misconduct. If the member's illness, injury, disease, or death occurred both while the member was absent from duty and was proximately caused by the member's own misconduct, the case should be finalized as NILOD, Due to Own Misconduct.

## **AIR FORCE EVALUATION**

AFRC/SGP recommends denying the application finding no evidence of an error or injustice as the applicant was clearly being treated for diabetes starting in May 08, before his 2009 deployment. During his deployment from Nov 09 through Mar 10, he was seen at the deployment clinic with symptoms of diabetes. His condition was found to be not in the line of duty (NILOD) due to his condition existing prior to his deployment. A review of his medical records revealed he was being treated for diabetes with a medication called Rosiglitazone starting on 23 May 08.

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 14 May 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 and recommendation of AFRC/SGP and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board notes the applicant's contention he was diagnosed with diabetes during his deployment but finds the preponderance of evidence indicates he was being treated for diabetes prior to his deployment and his illness was correctly determined to be NILOD and not service aggravated beyond the natural progression of the disease. Furthermore, the Board finds no indication the applicant was unable to perform his military duties due to his diabetes; therefore, he was not eligible for MEDCON orders. MEDCON orders are only authorized if an injury or illness is incurred or aggravated by military service and renders the member unfit and unable to perform the duties of his or her office, grade, rank or rating. Therefore, the Board recommends against correcting the applicant's records.

## **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-2023-03436 in Executive Session on 17 Jul 24:

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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 1 May 23.

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

Exhibit C: Advisory Opinion, AFRC/SGP, dated 6 May 24.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 14 May 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.

7/30/2024

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Board Operations Manager, AFBCMR  
Signed by: USAF

**AFBCMR Docket Number BC-2023-03436**

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