



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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03754

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His injury be found in line of duty (ILOD) and he be processed through the Disability Evaluation System (DES) for a medical retirement.

APPLICANT'S CONTENTIONS

He was discharged from the Air Force Reserve Officer Training Corps (AFROTC) program because he was injured after returning home from mandatory Practical Military Training (PMT). Per DoDI 1332.38, *Physical Disability Evaluation*, the Air Force is required to perform a line of duty (LOD) investigation if the injury was incurred while traveling directly to or from the place at which duty was performed and per AFI 36-3212, *Physical Evaluation for Retention, Retirement, and Separation*, paragraph 4.2, processing through the DES is warranted due to the nature of his paralysis, Post-Traumatic Stress Disorder, (PTSD), and Traumatic Brain Injury (TBI). He is currently receiving fundamental Department of Veterans Affairs (DVA) healthcare coverage; however, other DVA benefits are not available to him such as polytrauma support, caregiver assistance, housing and auto grants, etc., all aimed at enhancing his quality of life because his disabilities are not considered service-connected.

As evidence to support his request, the applicant provided his medical records, the accident report, pictures from the AFROTC duty he performed, his DVA rating decision, and a letter from AFROTC/CC Det [REDACTED], dated 30 Sep 20. In this letter, it is explained the applicant was returning home from a PMT on 4 Dec 12, which consisted of a change of command training exercise where he trained as the detachment's honor guard captain followed by a session of physical training while on campus. After leaving campus, while still in uniform, he was in a motor vehicle accident. The letter further states his accident occurred while he was in uniform returning home from PMT which as a senior in ROTC placed him on inactive duty for training (IDT) and his injuries meet the qualifications for being service connected as per established policy. The letter was signed by Ms. C-----, the administrator for AFROTC, Detachment [REDACTED]

The applicant's complete submission is at Exhibit A.

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

STATEMENT OF FACTS

The applicant is a former AFROTC cadet.

Dated 13 Sep 11, 9 Feb 12, and 13 Sep 12, AFROTC Forms 16, *Officer Candidate Counseling Record*, indicate the applicant attended Cadet Motorcycle Safety Briefings. Counselor's comments state the applicant was identified as a motorcycle rider, permitted to ride with the knowledge he was riding at his own risk and any injuries sustained while riding could affect his ability to remain in AFROTC and his medical qualification for military service.

On 20 Mar 13, DD Form 2361, *DoD Medical Examination Review Board (DODMERB) Report of Medical Examination*, indicates the applicant was found medically disqualified for Air Force commissioning and general military service by reason of spinal cord injury and multiple traumatic injuries due to motorcycle accident.

On 20 Mar 13, DD Form 785, *Record of Disenrollment from Officer Candidate-Type Training*, indicates the applicant was disenrolled from the AFROTC program for failing to meet medical accession standards.

On 1 May 13, AFROTC Form 22, *Cadet Personnel Action Request*, indicates the applicant's disenrollment was effective 20 Mar 13 and neither recoupment action nor call to extended active duty were to be initiated.

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

APPLICABLE AUTHORITY/GUIDANCE

Per DoDI 1215.06, *Uniform Reserve, Training, and Retirement Categories for the Reserve Components*, dated 7 Feb 07, incorporating changes through 5 Nov 07, Enclosure 3, Section 2, IDT consists of attendance at regularly scheduled unit training periods (regularly scheduled drills), additional IDT periods, and voluntary IDT. IDT primarily provides individual or unit readiness training to Reserve Component (RC) Service members. IDT, or its equivalent training, may not be used for correspondence courses. Units or individuals that participate in IDT may provide support to mission requirements as a result of the training. Paid IDT periods will not be less than four hours. No more than two IDT periods may be performed in any calendar day. Pursuant to Section 206 of Title 37 U.S.C. and within the guidelines prescribed in this enclosure, the Secretaries of the Military Departments and the Commandant of the USCG may prescribe additional standards for IDT. RC Service members may voluntarily perform special additional duties as IDT periods for retirement points only. This voluntary IDT is designated by the Secretary concerned or the Commandant of the USCG and performed pursuant to Section 101(22)(B) of Title 37 U.S.C. In particular, if utilized, this voluntary IDT will be performed in connection with prescribed training or maintenance activities of the units to which they are assigned. These periods are performed for

retirement points only (without pay) and will not be less than two hours, with a maximum of two points authorized in any one calendar day.

AIR FORCE EVALUATION

AFROTC/CC recommends denying the applicant's request to conduct a LOD determination finding no evidence of an error or injustice. He was not on orders during the incident, nor did the incident happen during an AFROTC activity. The applicant alleges the U.S. Air Force honorably discharged him from AFROTC program without due process as he was injured while returning home from a mandatory Practical Military Training on 4 Dec 12. DAFMAN 36-2032, *Military Recruiting and Accessions*, paragraph 6.6, discusses disenrollment, discharge, or involuntary call to active duty for AFROTC cadets. Paragraph 6.6.1. states the AFROTC/CC may disenroll a contracted cadet for medical disqualification. Paragraph 6.6.2 further outlines when detachment commanders will initiate investigations for possible disenrollment or dismissal from the AFROTC program stating when medical disqualification, determined by the appropriate medical authority, forms the basis for disenrollment action, no investigation is required. Following his disenrollment, a discharge memo was authored per DAFI 36-3211, *Military Separations*, Table 13.1 stating the applicant was honorably discharged from his enlistment in the Obligated Reserve Section (ORS) of the Inactive Ready Reserve (IRR). As outlined in Rule 55, notification was not required, he was not board eligible, and Secretary of the Air Force approval was not required. AFROTC does not have a copy of Reserve Order [REDACTED] dated 12 Jun 13; however, this document type is presumed to be the official memorandum a detachment commander would complete to discharge the applicant from the ORS of the IRR.

The applicant further claims he was returning from a mandatory PMT event. AFROTCI 36-2011 V3, *Cadet Operations*, paragraph 10.4 defines non-PMT activities, of which Honor Guard is explicitly listed. Paragraph 10.4.1 further explains AFROTC holds no medical or legal liability over non-PMT activities. The statement from Ms. C---, dated 30 Sep 20 as written from the AFROTC DET [REDACTED] CC, is not from the commander but instead the signatory Ms. [REDACTED] is the administrator at Det [REDACTED]. This statement is not an official stance from AFROTC or the DAF as she is a University of Georgia employee, and she did not have the authority to assert an official position on this matter for the Air Force.

Lastly the applicant claims the USAF is required by DODI 1332.38 (this publication was incorporated into 1332.18, *Disability Evaluation System*, on 5 Aug 14), to conduct a line of duty investigation if the injury, illness, or disease of a Ready Reserve member while performing duty of 30 days or less or while traveling directly to or from the place at which such duty is performed and AFI 36-2910, *Line of Duty, (LOD) Determination, Medical Continuation (MEDCON) and Incapacitation (INCAP) Pay*, allows for a LOD of an AFROTC cadet when a cadet is injured during AFROTC activities. The applicant further states, per AFI 36-3212, paragraph 4.2, eligibility for processing through the Integrated Disability Evaluation System (DES) was warranted. However, the applicant was not engaged in an AFROTC activity at the time of his accident. Per AFI 36-2910, Air Reserve Component (ARC) members must affirmatively be placed into official military status as a prerequisite to a LOD finding. Placement into status is

accomplished by approved and finalized orders. The applicant has not provided evidence he was ever placed on official orders during his time as a cadet. AFROTC is unable to find a copy of DODI 1332.38 from a verified source as cited by the applicant; however, it is possible the applicant intended to cite DoDI 1332.18; however, that regulation does not explicitly mandate a line of duty determination for a member of the IRR as represented by the applicant. He was not in a duty status as a member of the ORS of the IRR, therefore AFI 36-3212 paragraph 4.2 does not apply as a LOD was not required or appropriate.

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 27 Jan 25 for comment (Exhibit D) and the applicant replied on 24 Feb 25. In his response, the applicant contends his injuries were incurred in the LOD while under military authority and the AFROTC violated regulations by failing to conduct a LOD investigation. A federal judge already ruled in his favor, affirming his accident was service-connected due to IDT, AFROTC violated regulations by failing to conduct a LOD investigation, and his entitlement to a military medical retirement. He was disenrolled from the AFROTC while he was still in a coma which violated his rights to due process making his disenrollment unlawful. The Air Force's attempt to discredit a key witness, Ms. [REDACTED] is irrelevant because the federal court already ruled in his favor.

The applicant submitted the Board of Veterans' Appeal decision, dated 31 Oct 24 which granted him a service-connection for his spinal injury, right brachial plexus injury, and TBI due to a finding his injuries were incurred in transit from a period of IDT resulting from a motor vehicle accident and references an Aug 20 statement. The appeal decision goes on to note on 4 Dec 12, the applicant participated, in uniform, in a change of command and awards ceremony and was attending mandatory practical military training, a requirement for continuation in the AFROTC program. Therefore, the appeal board determined the training constituted a period of IDT, qualifying service and upon eligibility for service, he may be eligible for DVA compensation benefits.

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 AFROTC/CC and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board notes in the applicant's submitted evidence, the letter dated 30 Sep 20 written as appearing from the AFROTC Detachment Commander; however, the actual author and signatory, Ms. [REDACTED] was the

administrator at Detachment [REDACTED] and she was an employee of the university to which the applicant attended. This person did not have authority to assert an official position on this matter for the Air Force and she misstated both the applicant's status and policy in this letter. The letter stated the applicant was in an official duty status, returning home from PMT and should have been processed for a LOD determination designating his injuries as service-connected. However, the Board finds no evidence the applicant was on any official military order when the accident occurred. There are no pay records or any other documentation indicating the applicant was in an IDT status. IDT is a paid and/or points period of military duty for RC members and the applicant would need to provide a Leave and Earnings Statement (LES) to show he was in a paid military status, or a points summary showing he earned retirement points. Additionally, the Board further finds his duty while performing honor guard is a non-PMT duty to which AFROTC holds no medical or legal liability. The Board acknowledges the applicant's evidence from the DVA Board of Appeals granting him a service-connected disability; however, this decision has no bearing on the military's decision to disenroll him from the AFROTC program or conduct a LOD investigation. The DVA board made an independent decision to find his duty as IDT, but this Board does not agree with that decision. The DVA operates under a different set of laws, Title 38, U.S.C. whereas the military's DES operates under Title 10 U.S.C. 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.

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 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-2023-03754 in Executive Session on 12 Sep 24 and 19 Mar 25:

[REDACTED], Panel Chair
[REDACTED], Panel Member
[REDACTED], Panel Member

All members voted against correcting the record. The panel considered the following:

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- Exhibit A: Application, DD Form 149, w/atchs, dated 27 Oct 23.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, AFROTC/CC, w/atchs, dated 26 Jan 25.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 27 Jan 25.
Exhibit E: Applicant's Response, w/atchs, dated 24 Feb 25.

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.

4/2/2025

Board Operations Manager, AFBCMR
Signed by: USAF

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