



Work-Product

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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-01234

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

### APPLICANT'S REQUEST

He be placed on the Permanent Disability Retired List (PDRL) to be eligible for Concurrent Retired Disability Pay (CRDP) and Combat-Related Special Compensation (CRSC).

### APPLICANT'S CONTENTIONS

He was separated and transferred to the retired Reserve. He was deemed physically disqualified which forced him out of the military after serving 24 years. At that time, he was service-connected by the Department of Veterans Affairs (DVA) at 70 percent for chronic kidney disease, tinnitus, and hypertension. Because he has over 20 years of service and is service-connected above 30 percent, he should be placed on the PDRL in order to qualify CRDP and CRSC.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a retired Air National Guard (ANG) technical sergeant (E-6) awaiting retirement pay at age 60.

On 5 Jun 07, ARPC/DPTT sent the applicant the standard Notification of Eligibility for retired pay (20-year letter) informing him he has 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.

On 29 Sep 11, NGB Form 22, *National Guard Bureau Report of Separation and Record of Service*, reflects the applicant was honorably discharged from the ANG after serving 24 years, 7 months, and 13 days of service for this period. He was discharged, with a narrative reason for separation of "Physical Disqualification."

Dated 11 Oct 11, Reserve Order **Work-Product** indicates the applicant was assigned to the Retired Reserve List (RRL), effective 30 Sep 11.

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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)

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

### **APPLICABLE AUTHORITY/GUIDANCE**

Concurrent Retirement and Disability Pay (CRDP) eligibility is a joint program administered by the Defense Finance and Accounting Service (DFAS) and the Department of Veterans Affairs (DVA). CRDP allows military retirees to receive both military retired pay and DVA compensation. This was prohibited until the CRDP program began on 1 Jan 04. The eligibility criteria are as follows:

- You must be eligible for retired pay to qualify for CRDP. If you were placed on a disability retirement but would be eligible for military retired pay in the absence of the disability, you may be entitled to receive CRDP. Under these rules, you may be entitled to CRDP if (1) you are a regular retiree with a DVA disability rating of 50 percent or greater; (2) you are a reserve retiree with 20 qualifying years of service, who has a DVA disability rating of 50 percent or greater and who has reached retirement age; (3) you are retired under Temporary Early Retirement Act (TERA) and have a DVA disability rating of 50 percent or greater; or (4) you are a disability retiree who earned entitlement to retired pay under any provision of law other than solely by disability, and you have a DVA disability rating of 50 percent or greater. You might become eligible for CRDP at the time you would have become eligible for retired pay.

The purpose of CRSC is to award tax-free payments if the member's DoD retirement payments are being reduced by the amount of their DVA disability payments. Disabilities are determined to be combat-related as defined under 10 U.S.C. Section 1413a and DoD Financial Management Regulation, Volume 7B, Chapter 63, (1) as a direct result of armed conflict, (2) while engaged in hazardous service, (3) under conditions simulating war, or (4) caused by an instrumentality of war. Members are not entitled to receive CRDP and CRSC at the same time.

### **AIR FORCE EVALUATION**

The AFBCMR Medical Advisor recommends denying the application finding insufficient evidence to support the applicant's request to change his discharge outcome to reflect a medical retirement. It appears the applicant was not a victim of an error or injustice and his discharge processing as well as the narrative reasoning for his final separation were appropriate and accomplished in accordance with Air Force policy. A post-service DVA disability rating is not synonymous or equivalent to the military's disability evaluation near the time-of-service separation. The burden of proof is placed on the applicant to submit evidence to support his request. The evidence he did submit were assessed to not support his request as written. IgA nephropathy, also known as Berger disease, is a kidney disease. It happens when a germ-fighting protein called immunoglobulin A (IgA) builds up in the kidneys. This causes a type of local inflammation that, over time, can make it harder for the kidneys to filter waste from the blood. IgA nephropathy often worsens slowly over many years, but the course of the disease often varies from person to person. Some people leak blood into their urine without having other problems.

Other individuals might have complications such as losing kidney function and spilling protein into the urine. Still others may develop kidney failure, which means the kidneys stop working well enough to filter the body's waste on their own. There's no cure for IgA nephropathy, but medicines can slow how quickly it could worsen. Some people need treatment to lower inflammation, reduce the spilling of protein into the urine, and prevent the kidneys from failing. Such treatments may help the disease reach a state of remission.

In this case, while the applicant is currently (post-service) diagnosed with the above cited kidney condition, there is insufficient evidence he met the potential unfitting criteria for such condition during his time in service. Having a medical diagnosis alone does not automatically classify someone unfit for duty. That requires much more information to determine unfitness which includes being placed on a permanent duty limiting condition (DLC) profile, being deemed not worldwide qualified (WWQ) due to a medical condition, and impact or interference of the condition(s) on the service member's ability to reasonably perform their military duties in accordance with their office, grade, rank, or rating. Such designations were absent from the applicant's submitted records as well as the DoD's record database. From the obtainable records, it appeared the applicant was never determined to have any DLCs or placed on an extended or permanent profile, he remained WWQ, and he was able to perform his military duties as well as those duties required of an officer in a correctional facility. His service record demonstrated such abilities through the receipt of various personal and unit awards.

The presented evidence in this case failed to show the kidney condition or any of the applicant's physical health conditions as rated by the DVA, met the level of unfitness for military duty performance. The applicant cited his DVA disability ratings for his combined medical conditions. He specifically noted his combined service-connected 90 percent rating and appeared to request a similar rating should have been decided by the military prior to separation and thus placing him on track to a possible medical retirement. Therefore, it remains paramount to brief the difference between the military and DVA disability evaluation. For awareness sake, the military's Disability Evaluation System (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 military active service and were the cause for career termination; and then only for the degree of impairment present near the time of service separation and not based on future progression of injury or illness. On the other hand, operating under a different set of laws (Title 38, U.S.C.), with a different purpose, the DVA is authorized to offer compensation for any medical condition determined service incurred, without regard to and independent of its demonstrated or proven impact upon a service member's retainability, fitness to serve, or the length of time since date of discharge.

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 20 Dec 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. The applicant was discharged from the ANG due to a physical disqualification; however, the Board finds the preponderance of evidence does not support the applicant's request to be placed on the PDRL. In order to be placed on the PDRL, the applicant's medical condition must have been incurred and become unfitting during a period of active duty. However, due to the nature of his kidney disease, the Board does not find his disease was incurred during a qualifying period of service or was service-aggravated beyond the natural progression of the disease. Furthermore, once the applicant becomes eligible to receive his Reserve retired pay, he will be eligible to concurrently receive his DVA disability pay under the CRDP program. This is not contingent upon being placed on the PDRL. Additionally, he would not be eligible to receive CRSC as he cannot receive CRDP and CRSC at the same time nor do his disabilities appear to qualify for CRSC consideration as it appears none of his medical conditions qualify as combat-related. 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-2024-01234 in Executive Session on 15 Jan 25 and 21 Jan 25:

- 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 16 Mar 24
- Exhibit B: Documentary evidence, including relevant excerpts from official records.

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Exhibit C: Advisory Opinion, AFBCMR Medical Advisor, dated 17 Dec 24.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 20 Dec 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.

1/22/2025

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Board Operations Manager, AFBCMR

Signed by: USAF

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