



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-01352

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

When he initially enlisted in the Air Force, it was noted he had asthma as a child. He was asymptomatic from 1972 to 2004, and it was noted during his physical he did not have asthma. The CRSC disapproved his application due to asthma existing prior to service (EPTS). The Department of Veterans Affairs (DVA) awarded a 50 percent disability rating for his asthma due to service-aggravation. His respiratory problems developed into asthma after his deployments due to burn pit exposure, sandstorms, jet fuel, pesticides, etc. He now uses inhalers almost daily to help with his breathing problems. He never had asthma until after his deployments; his respiratory issues turned into asthma after his deployments.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force master sergeant (E-7).

On 31 Oct 04, DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects the applicant was honorably discharged in the grade of master sergeant (E-7) after serving 20 years, 6 months, and 26 days of active duty. He was discharged, with a narrative reason for separation of "Sufficient Service for Retirement."

On 12 Mar 24, the applicant's request for CRSC was denied for the numerous medical conditions to include Obstructive Sleep Apnea (OSA) with asthma (service-connected, peacetime incurred). It is noted the documentation the applicant provided did not confirm his sleep apnea with asthma was a direct result of Armed Conflict, Hazardous Service, Simulation of War, Gulf War/Agent Orange exposure or an Instrument of War. The documentation indicated he was diagnosed with asthma prior to his deployment; therefore, did not meet the criteria for approval.

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

On 26 Mar 24, the applicant's reconsideration for CRSC was denied for sleep apnea with asthma. It is noted, the DVA determined asthma as a presumptive condition due to Gulf War exposure if it was diagnosed after service and advised the applicant if he had medical documentation his asthma was diagnosed after retirement, to submit for reconsideration noting for his asthma to be considered combat-related, it must be specifically granted by the DVA as presumptive to Gulf War exposure and he must provide the initial DVA Rating Decision for the claimed disability showing, not just service connection, but the specific cause of the condition, such as, applicant's asthma is due to Gulf War.

Dated 10 Jan 24, the DVA appeal letter, provided by the applicant, indicates he was service-connected for his asthma due to service-aggravation. The board found the Jan 20 DVA medical opinion and the Apr 20 private medical opinion sufficient to grant his request. In the Apr 20 opinion, the doctor acknowledged the presence of asthma on the applicant's enlistment examination and the multiple in-service documents noting breathing problems and prescribed medications, and additionally noted the applicant's service in Iraq, Saudi Arabia, and Kuwait and working on flightlines exposed him to sand, jet fuel, jet exhaust, and other contaminants and opined it is more likely than not the applicant's asthma was present while on active duty and worsened due to his time serving in Operation DESERT STORM (oil fires), Operation IRAQI FREEDOM (burn pits, sand, etc.) and his occupation working on the flightline (jet exhaust, petroleum products).

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 applicant's request for CRSC. The fact 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. 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 combat-related event and the resulting disability. Documentation submitted by the applicant has been reviewed and there is no evidence provided such as in-service medical records from the time of the injuries that confirms his injuries were a direct result of a combat-related event. This lack of evidence prevents consideration under current CRSC criteria. The DVA has determined asthma is approvable (presumptive) under the Promise to Address Comprehensive Toxic (PACT) Act, when diagnosed after military service.

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 4 Oct 24 for comment (Exhibit D), and the applicant replied on 11 Oct 24. In his response, the applicant contends his pre-enlistment documents have minimal statements implying he had asthma as a child, this was in

1983. He was asymptomatic after that and did not have breathing problems until he returned from Iraq. His doctor, in a letter dated 15 Apr 20, clearly states his asthma was service-aggravated, specifically from his time in the Gulf. His request for CRSC due to his asthma/sleep apnea should be approved in accordance with the PACT Act of 2022 as his deployments were a major factor in his asthma.

The applicant's complete response is at Exhibit E.

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 AFPC/DPFDC and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board notes the DVA service-connected the applicant's asthma with a 30 percent disability rating because it was found through an appeal board his asthma was service aggravated; however, the DVA does not indicate his asthma was specifically service-aggravated due to the Gulf War as this would be required to grant CRSC under the presumptive of Gulf War exposure. It was noted in the evidence submitted granting his appeal, his asthma worsened due to multiple factors relating to his Air Force duties and not solely from his deployments, exposure to burn pits and sandstorms (Gulf War exposure). While service connection for disabilities is required for initial eligibility for CRSC consideration, the CRSC program is designed to provide compensation for combat-related injuries and its standards are much more rigorous when determining if claimed disabilities qualify as combat-related. There needs to be evidence which 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 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. When making combat-related determinations, there must be a definite, documented, causal relationship between the armed conflict and the resulting disability. There was no evidence provided confirming the applicant's injuries were direct result of a combat-related event. 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-2024-01352 in Executive Session on 15 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 5 Apr 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPFDC, dated 13 Aug 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 4 Oct 24.
- Exhibit E: Applicant's Response, w/atchs, dated 11 Oct 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