

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-02733

XXXXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His official military personnel records amended to reflect award of Combat-Related Special Compensation (CRSC) for Post-Traumatic Stress Disorder (PTSD), Mental Health, and Anxiety.

APPLICANT'S CONTENTIONS

He understands CRSC is payable for disabilities that are found to be related to combat, including disabilities that were incurred in actual combat, while engaged in hazardous service, in performance of duty simulating war, training for combat, or as a result of an instrumentality of war. Three years prior to, and at the time of, the applicant's medical retirement, he was assigned to a Combat Training Squadron. In the prior four years leading up to that assignment, he deployed to the Middle East eight times. While the applicant has submitted medical information, buddy statements, and personal statements, he is requesting that information be once again looked at for CRSC consideration for PTSD.

Based on the provided information, the applicant's conditions warrant consideration and approval for CRSC. He deployed to combat zones as a mission crew commander multiple times leading up to the stressors causing his PTSD and Type 1 Diabetes diagnosis. Further, the applicant was assigned to a Combat Training Squadron, preparing to deploy when diagnosed.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force captain (O-3).

On 16 Sep 15, according to AF IMT 618, *Medical Board Report*, the applicant was diagnosed with Diabetes – Type 1; Incurred while entitled to basic pay: Yes; Existed prior to service: No; Permanently aggravated by service: Yes.

The applicant was referred to the informal Physical Evaluation Board (IPEB).

On 22 Oct 15, according to AF Form 356, *Findings and Recommended Disposition of USAF Physical Evaluation Board (Informal)*, the applicant was found unfit because of physical disability and diagnosed with:

- Category I – Unfitting Conditions:

- Diabetes Mellitus, Type 1; Incurred while entitled to basic pay: Yes; Line of Duty: Yes; Disability Compensation Rating: 60 percent; Veterans Administration Schedule for Rating Disabilities Code: 7913; Combat-related determination as defined in Title 26, United States Code § 104 (26 USC § 104): No; Disability was incurred in a combat zone or incurred during the performance of duty in combat-related operations as designated by the Secretary of Defense (NDAA 2008, Sec 1646): No.

The IPEB recommended permanent retirement with a combined compensable percentage of 60 percent.

On 13 Nov 15, according to AF Form 1180, *Action on Physical Evaluation Board Findings and Recommended Disposition*, the applicant agreed with the findings and recommended disposition of the IPEB and waived the right to a formal PEB hearing. The applicant did not request a one-time reconsideration of the disability rating for the condition found unfitting by the PEB.

On 28 Mar 16, the applicant was honorably discharged with narrative reason for separation of Disability, Permanent (Enhanced), and was credited with 16 years, 8 months, and 29 days of active service.

On 29 Mar 16, according to Special Order Number XXXXX, dated 10 Dec 15, the applicant was permanently disability retired with a compensable percentage for physical disability of 60 percent; Disability received in line of duty as a direct result of armed conflict or caused by an instrumentality of war and incurred in line of duty during a period of war: No; Disability was the direct result of a combat-related injury as defined in 26 USC § 104: No.

On 2 Jan 24, according to DD Form 2860, *Claim for Combat-Related Special Compensation (CRSC)*, the applicant requested CRSC for: Diabetes Mellitus, Type 1.

On 30 Jan 24, according to an AFPC/DPFDC (USAF Physical Disability Division) letter, Subject: Partial Approval of CRSC in the Case of [Applicant], the applicant's request for CRSC was approved for Allergic Rhinitis, with a combined rating of 30 percent, effective 1 Mar 23. His request for CRSC was not approved for PTSD with unspecified Depressive Disorder and Anxious Distress, Tinnitus, and Diabetes Mellitus, Type 1 to include Erectile Dysfunction.

On 9 Apr 24, according to an AFPC/DPFDC letter, the applicant's request for CRSC for PTSD with unspecified Depressive Disorder and Anxious Distress was not approved.

On 17 Apr 24, according to an *Air Force CRSC Reconsideration Request*, the applicant requested reconsideration for CRSC for PTSD with unspecified Depressive Disorder and Anxious Distress.

On 25 Apr 24, according to an AFPC/DPFDC letter, the applicant's request for CRSC for PTSD was not approved.

On 12 Aug 24, according to an AFPC/DPFDC letter, provided by the applicant, his request for CRSC for Diabetes Mellitus, Type 1 was not approved.

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

APPLICABLE AUTHORITY/GUIDANCE

10 USC § 1413a. *Combat-related special compensation.*

(a) *Authority.* The Secretary concerned shall pay to each eligible combat-related disabled uniformed services retiree who elects benefits under this section a monthly amount for the combat-related disability of the retiree determined under subsection (b).

(e) *Combat-Related Disability.* In this section, the term "combat-related disability" means a disability that is compensable under the laws administered by the Secretary of Veterans Affairs and that:

- (1) is attributable to an injury for which the member was awarded the Purple Heart;
or,
(2) was incurred (as determined under criteria prescribed by the Secretary of Defense)
- (A) as a direct result of armed conflict;
 - (B) while engaged in hazardous service;
 - (C) in the performance of duty under conditions simulating war; or
 - (D) through an instrumentality of war.

Department of Defense (DoD) 7000.14-R, *Financial Management Regulation*, Volume 7B, Chapter 63, dated Nov 19, 6.0 *Determination of Combat-Relatedness* (6306):

6.1 *Direct Result of Armed Conflict* (630601)

6.1.1. The disability is a disease or injury incurred in the line of duty as a direct result of armed conflict. To support a combat-related determination, it is not sufficient to only state the fact that a member incurred the disability during a period of war, in an area of armed conflict, or while participating in combat operations. There must be a definite causal relationship between the armed conflict and the resulting disability.

6.1.2. Armed conflict includes a war, expedition, occupation of an area or territory, battle, skirmish, raid, invasion, rebellion, insurrection, guerilla action, riot, or any other action in which servicemembers are engaged with a hostile or belligerent nation, faction, force, or with terrorists.

6.2 *While Engaged in Hazardous Service* (630602)

Hazardous service is service that includes, but is not limited to, aerial flight, parachute duty, demolition duty, experimental stress duty, and diving duty. A finding that a disability is the result of hazardous service requires that the injury or disease be the direct result of actions taken in the performance of such service. Travel to and from such service, or actions incidental to a normal duty status not considered hazardous, are not included.

6.3 *In the Performance of Duty Under Conditions Simulating War* (630603)

In general, performance of duty under conditions simulating war covers disabilities resulting from military training, such as war games, practice alerts, tactical exercises, airborne operations, leadership reaction courses, grenade and live fire weapon practice, bayonet training, hand-to-hand combat training, repelling, and negotiation of combat confidence and obstacle courses. It does not include physical training activities such as calisthenics, jogging, formation running, or supervised sport activities.

6.4 *Instrumentality of War* (630604)

6.4.1. There must be a direct causal relationship between the instrumentality of war and the disability. It is not required that a member's disability be incurred during an actual period of war. The disability must be incurred incident to a hazard or risk of the service.

6.4.2. An instrumentality of war is a vehicle, vessel, or device designed primarily for Military Service and intended for use in such Service at the time of the occurrence or injury. It may also include such instrumentality not designed primarily for Military Service if use of or occurrence involving such instrumentality subjects the individual to a hazard peculiar to Military Service. Such use or occurrence differs from the use or occurrence under similar circumstances in civilian pursuits.

6.4.3. A determination that a disability is the result of an instrumentality of war may be made if the disability was incurred in any period of service as a result of such diverse causes as

wounds caused by a military weapon, accidents involving a military combat vehicle, injury or sickness caused by fumes, gases, or explosion of military ordnance, vehicles, or materiel.

6.4.4. For example, if a member is engaging in a sporting activity while on a field exercise and falls and strikes an armored vehicle, the injury would not be considered the result of an instrumentality of war (armored vehicle) because it was the sporting activity that was the cause of the injury, not the vehicle. On the other hand, if the individual was engaged in the same sporting activity and the armored vehicle struck the member, then the injury would be considered the result of an instrumentality of war.

AIR FORCE EVALUATION

AFPC/DPFDC recommends denying the application. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice.

The fact that a member incurred a 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 in accordance with Public Law 107-314, Office of the Under Secretary of Defense guidance, 10 USC § 1413a, and DoD Financial Management Regulation, Volume 7B, Chapter 6¹. 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.

The applicant submitted three claims for CRSC. His claims were disapproved as non-combat related. The applicant contends his disabilities were caused while on a top-secret mission to collect intelligence on high value targets. His fellow crew members saw a missile just miss their aircraft; he heard and saw gruesome videos of multiple troops who were dead/badly injured. The applicant also witnessed fire and improvised explosive device/small arms fire casualties.

When making combat-related determinations for mental health diseases, the CRSC board looks for instances of direct exposure to a specific combat-related event placing the member's life at risk, such as direct exposure to gunfire or mortar/rocket attacks or surviving an aircraft crash. The documents the applicant provided (decorations, performance reports, witness statements) contained no evidence confirming he was directly involved in a combat-related event. This lack of evidence prevents consideration under current CRSC criteria.

On his application to the Air Force Board for Correction of Military Records (AFBCMR), the applicant indicated he provided [the CRSC board] medical information for consideration. A review of our records indicates no medical documentation was received from the applicant. Although medical documentation may confirm mental health diseases, it does not identify a specific combat-related event (nexus) attributed to the claimed disability. Medical documentation for such disabilities is often related from a patient's account (point of view) of what happened and is not objective documentary evidence the claimed combat-related stressors occurred.

Additionally, third-party witness testimonials of the event are accepted and taken into consideration regardless of the rank of the individual providing the testimonial but are not sufficient proof to establish clear and convincing evidence unless corroborated by objective documentation (in-service documentation from the time of the event). Further, third-party witness statements cannot confirm a medical diagnosis.

¹ Typographical error; correct reference is Department of Defense Financial Management Regulation, Volume 7B, Chapter 63.

The information the applicant provided in his application to the AFBCMR has been thoroughly reviewed and provides no new evidence that supports his claim for CRSC.

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 13 Jan 25 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 AFPC/DPFDC and finds a preponderance of the evidence does not substantiate the applicant's contentions. 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 for CRSC eligibility. There must be a definite, documented, causal relationship between the armed conflict and the resulting disability. There was no evidence presented which confirms the injuries and how they occurred to confirm they were the direct result of a combat-related event in accordance with 10 USC § 1413a and DoD Financial Management Regulation, Volume 7B, Chapter 63.

Third-party statements, to include those made by the applicant's medical providers, only reiterate the circumstances surrounding the injuries as provided by the applicant. As these statements are not first-hand accounts, they can only speculate on the cause of the applicant's disabilities. Further, these statements are not corroborated by objective evidence, such as medical records from the time of the event, or accident/investigative reports, which could produce a definite, documented, causal relationship between the combat-related event and the resulting disability. 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-2024-02733 in Executive Session on 21 May 25:

, 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 31 Jul 24.

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

Exhibit C: Advisory Opinion, AFPC/DPFDC, w/atchs, dated 19 Dec 24.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 13 Jan 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.

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Board Operations Manager, AFBCMR