

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 94-03531

COUNSEL: [REDACTED]

HEARING DESIRED: No

NOV 12 1998

APPLICANT REQUESTS THAT:

His records be corrected to show that all of his disabilities of ratable quality were established with the correct compensable rating.

He receive any pay and allowances due and continuation of pay for hospitalization which occurred while awaiting a Formal Physical Evaluation Board (FPEB).

APPLICANT CONTENDS THAT:

He disagrees with the decision to discharge him from the Air Force Reserve on 7 January 1994 by reason of back pain associated with spinal stenosis with a compensable rating of 20 percent.

On 8 February 1991, while serving on active duty in support of Operation Desert Shield/Storm, he fell in the shower, sustaining injuries to his head, back, hip and right elbow. The original diagnosis was soft tissue injury paralumbar and olecranon trauma with possible chip or break. He remained under constant care during the period he served on active duty and it was determined he was not available for worldwide assignment. He was released from active duty while in a medical hold status. Contrary to Title 10, United States Code, he was not afforded the opportunity to establish a claim with the Department of Veterans Affairs (DVA) for known disabling defects prior to his discharge and no separation benefit counseling was provided. He was not given a separation physical to establish his disabilities of ratable quality for discharge and military pay and retirement. Instead, he was released from active duty without separation counseling while denying his rights as a service member to establish a disability claim prior to separation.

After his separation, he was not informed about continuation pay. At the time of his release, he was told he was going to be discharged by a Physical Evaluation Board (PEB) proceeding. The Line of Duty (LOD) determination was not completed until 5 September 1991, as the result of a Congressional Inquiry. As a result of the LOD investigation, it was determined that the

responsible Air Force officials did not follow established procedures for keeping him on medical hold until he was afforded the opportunity to present his claim and a PEB was held. Instead, despite his disability, he was forced to perform drills, even though it was known he could not complete satisfactory drill requirements. In addition to the severe pain he experienced because of his back problems, he suffered from anxiety, depression and tinnitus with vertigo. These disabilities occurred as a result of his accident and have been denied throughout. In addition, he has been denied compensation for his hypertension and pelvic girdle trauma.

When a service member sustains an injury while on active duty, military authorities should find those disabilities of a ratable quality for retirement purposes which not only hinder civilian employment but, more importantly, those which affect military performance. He has provided expert medical opinions which clearly establish each requested disability and substantiates his request.

In support of his request, the applicant provided reports by his private physicians, and, copies of correspondence and documents associated with his service and the events cited in his appeal. These documents are appended at Exhibit A.

STATEMENT OF FACTS:

The applicant began his military career on 23 March 1976, when he was appointed a first lieutenant, Biomedical Sciences Corps (BSC), Reserve of the Air Force, and was voluntarily ordered to extended active duty as a Pharmacist on 11 October 1976. He was honorably released from extended active duty on 1 May 1980 and transferred to the Air Force Reserve, under the provisions of AFR 36-12 (voluntary-release expiration term of service). He continued to participate as an active Reserve member and was progressively promoted to the grade of major, Reserve of the Air Force, effective and with a date of rank of 26 April 1985.

By Special Order [REDACTED], dated 29 January 1991, the applicant was involuntarily ordered to extended active duty (EAD) by direction of the President in support of Operation Desert Shield/Storm. He was relieved from his Reserve assignment as an IMA pharmacist at [REDACTED] and assigned to [REDACTED] as a clinical pharmacist at [REDACTED] with the effective date of 3 February 1991. On 8 February 1991, while at Travis AFB, the applicant jumped out of a scalding hot shower and slipped and fell-hitting his hip, back and right elbow. He received treatment at [REDACTED] from 8 February 1991 to 13 March 1991, at which time he requested to be discharged.

On 5 April 1991, the applicant was released from active duty and transferred to the Air Force Reserve, under the provisions of HQ MAC/DPB MSG [REDACTED] (ANGUS/USAFR member released due to demobilization). He was credited with 2 months and 4 days of active duty service this period, 4 years, 3 months and 10 days of total prior active service, and 10 years, 6 months and 29 days of total prior inactive service at the time of his release from active duty.

An AF Form 422, Physical Profile Serial Report, dated 15 July 1991, indicated that the applicant's profile was temporarily changed to 3P (Significant defect or defects and or disease under good control, and not requiring regular and close medical support. Capable of all basic work commensurate with rank and position).

As a result of his 8 February 1991 injury (contusion lumbar spine with left sciatic radiculopathy), a Line of Duty (LOD) determination was conducted and, on 5 September 1991, the finding was that the injury was incurred in the line of duty.

An AF Form 422, dated 7 August 1992, reflected the applicant's defects/restrictions as "lumbar disc protrusions L2-3, L3-4, L4-5, L5-S1". He was assigned a profile of L4 (Lower extremities; Medically unacceptable for worldwide duty or qualification questionable, including remote and isolated duty. Strength, range of movement, and efficiency of feet, legs, pelvic girdle, lower back and lumbar vertebrae). The applicant was restricted from Reserve participation for pay or point gaining activities.

By letter, dated 18 September 1992, The Chief, Personnel Readiness Division, AF/DPXC, forwarded to the Surgeon General's office, AF/SGPC, a letter from the Director, Health Services Individual Reserve Programs, HQ ARPC/SG, dated 13 August 1992, requesting the applicant's case be reviewed by a Medical Board.

On 5 December 1992, in response to a Congressional Inquiry, the Air Force Medical Operations Agency, Office of the Surgeon General, (HQ AFMOA/SGPC) recommended to the Joint and Mobilization Plans Branch (AF/DPXC) that the applicant be evaluated by a Medical Evaluation Board (MEB).

A Medical Evaluation Board (MEB) convened on 10 March 1993 at [REDACTED]. The diagnosis and findings of the MEB follow: Spinal stenosis L4/L5 and disk herniation to the left at L4/L5 and smaller at L5/S1; with 1991 being the approximate date of origin; incurred while entitled to basic pay; not existing prior to service; and permanently aggravated by service. The MEB recommended that the applicant's records be forwarded to the Physical Evaluation Board (PEB) for further evaluation. The board's recommendation was approved on 15 March 1993 and on 26 March 1993, the applicant was informed of the findings and recommendations of the MEB. On 28 April 1993,

the Directorate of Health Services Individual Reserve Programs, HQ ARPC/SGS, concurred with the recommendation for further evaluation by the PEB.

An MEB Addendum, dated 23 July 1993, indicated that his worldwide qualification was questionable.

On 15 September 1993, an Informal Physical Evaluation Board (IPEB) was convened. The diagnosis of the IPEB follows: Back pain, associated with spinal stenosis L4-5 and disk herniation to the left at L4-5 and smaller at L5-S1; incurred while entitled to receive basic pay in the line of duty; ratable under VA diagnostic code 5299-5293 at 20%. The IPEB found the applicant was unfit because of physical disability and the degree of impairment might be permanent. The IPEB recommended discharge with severance pay at a compensable rating of 20 percent. On 9 November 1993, the applicant indicated he disagreed with the findings and recommendation of the IPEB and submitted a rebuttal through his counsel (Military Order of the Purple Heart).

A Formal Physical Evaluation Board (FPEB) was convened on 9 November 1993. After hearing the applicant's testimony and reviewing the evidence, the board rendered a diagnosis of back pain, associated with spinal stenosis L4-5 and disk herniation to the left at L4-5 and smaller at L5-S1. The FPEB concurred with the IPEB's recommendation of discharge with severance pay with a compensable rating of 20 percent.

On 20 December 1993, the Secretary of the Air Force directed the applicant be discharged with severance pay and a 20 percent disability rating. On 19 January 1994, the applicant was relieved from his assignment with the 9019 Air Reserve Squadron, Lowry AFB, CO, and discharged by reason of physical disability, with entitlement to severance pay at a 20 percent compensable rating.

Applicant's ANG/USAFR Point Credit Summary, reveals that for Retirement Year Ending (RYE) 22 March 1993, he was credited with 43 points and for the period ending 19 January 1994, he was credited with 18 points. At the time of his separation, he had accrued 16 years of satisfactory Federal service.

The applicant was rated at 20% by the Department of Veteran's Affairs on 23 September 1991 for residuals, low back injury. A DVA rating on 25 March 1992 indicates that the applicant was evaluated for low back injury and service connection for hypertension. The DVA amended their disability compensation as follows: 5293, discogenic disease, residuals low back injury, at 40% and 7101, hypertension at 10%, with a combined compensable rating of 50%. On 22 September 1993, the DVA notified the applicant that his discogenic disease was confirmed and continued at a 40 percent disability rating. On 18 June 1994, the applicant requested the DVA conduct an evaluation of a

psychological condition (depression with psychotic features) he alleged he incurred while on active duty with the USAF Reserve.

AIR FORCE EVALUATION:

The BCMR Consultant, HQ AFMPC/DPMMMR, reviewed this application and recommended denial. DPMMMR provided a summary of the facts contained in the record and indicated that there is no evidence of error or irregularity in the processing of this case. DPMMMR is of the opinion that the applicant's case was properly evaluated, appropriately rated, and received full consideration under the provisions of AFR 35-4. DPMMMR stated that action and disposition in this case were proper and reflect compliance with Air Force directives which implement the law (Exhibit C).

The Chief, USAF Physical Disability Division, HQ AFMPC/DPMAD, also reviewed this application and recommended denial. DPMAD agreed with the comments of the BCMR Consultant. DPMAD indicated that the medical consultant has correctly stated the facts in this case and that the applicant was given full and fair consideration and awarded a disability rating consistent with the provisions of the Veteran's Administration Schedule for Rating Disabilities. The applicant exercised his right of appeal through all levels of review and received a formal hearing of his case. At that time, he was represented by legal counsel, and given the opportunity to present any additional documentation. The applicant nonconcurred with the formal hearing findings and submitted a written rebuttal to the next appeal level. DPMAD could not find any evidence on record or submitted by the applicant that indicated the boards erred in their rating decisions. This evaluation is appended at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Counsel reviewed the advisory opinions and indicated that the applicant's own service has already admitted to an erroneous separation. The applicant's command separated him without proper authority. He has not been provided any form of continuation pay while hospitalized or unemployed due to his service-connected disabilities while waiting two years and six months for a Physical Evaluation Board (PEB) to convene. Prior to the erroneous separation on 5 April 1991, the applicant's sciatic radiculopathy had already been noted. Service cannot disclaim disabilities which significantly contribute to the applicant's overall disability picture. The applicant was hospitalized twice for major depression while waiting for the PEB to be held. The applicant contends his injury and mobilization aggravated and significantly contributed to the severity of his condition. The Air Force Discharge Review Board claimed the applicant was working 40 hours per week in his chosen profession. However, the

applicant scheduled a 40 hour week but it became very clear during the FPEB testimony that the applicant was actually incapable of performing a full 40 hour week. The applicant does not desire to pyramid disabilities - he desires to establish disabilities of ratable quality which would result in the same cause for a medical discharge. The applicant and counsel request the Board consider all disabilities since they significantly contribute to the whole person concept and his ability to maintain employment (Exhibit H).

ADDITIONAL AIR FORCE EVALUATION:

Pursuant to the Board's request, the Chief, Physical Disability Division, HQ AFPC/DPPD, again reviewed the application, which included the applicant's 12 November 1993 letter to Congresswoman ██████████. The specific questions the applicant raised in the aforementioned letter concerning the disability issue have been addressed by DPPD in their evaluation at Exhibit D.

DPPD stated that the applicant was evaluated, boarded, found unfit and rated based upon the "back pain, associated with spinal stenosis and disk herniation". Thus, only the back pain was rated, since that was the condition which rendered him unfit. The mere existence of a medical condition does not mean that condition is unfitting. To be unfitting, the condition must be such that it renders the person unable to perform duties that would normally be expected of their rank and grade. The record clearly shows that the other conditions were not unfitting at the time he was evaluated (hip pain, hearing loss, tinnitus (ringing in the ears), hypertension (high blood pressure), hyperlipidemia (high cholesterol readings), anxiety and depression). Since the medical personnel who initiated the MEB did not deem these of sufficient severity to potentially render the member unfit, they were not listed on the MEB. Additionally, when the various boards (Informal and Formal Physical Evaluation Boards and the Air Force Personnel Board) reviewed the case and the member's appeal, they did not find these conditions to be unfitting at that time. Simply because these conditions were rated by the DVA as medical conditions connected to the applicant's military service does not mean these are unfitting conditions.

DPPD stated that the reason why an applicant could receive noticeably different disability ratings from the Air Force and the DVA lies in understanding the differences between title 10, USC, and Title 38, USC. Title 10, USC, Chapter 61, is the federal statute that charges the Service Secretaries with maintaining a fit and vital force. Once the individual is found unfit, the degree of disability is based upon the member's condition at the time of permanent disposition and not upon possible future events. Title 38, USC, governs the DVA compensation system, was written to allow awarding compensation for conditions that are not unfitting for military service. DPPD

stands by their previous advisory opinion that the applicant was appropriately processed and rated by the physical disability system.

A complete copy of this evaluation is appended at Exhibit D-1.

APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION:

Counsel reviewed the additional advisory from DPPD and stated that the applicant was hospitalized for anxiety/depression while awaiting the Formal PEB to convene. The Air Force violated its own policy since the applicant's unit of assignment failed to notify the MEB of applicant's change in status. Counsel argues that this may have been material in the outcome of the decision and a medical evaluation for a mental condition by the Air Force may have been appropriate to determine the severity of the disability. The Air Force simply denied the disability even existed although the evidence provided by applicant proved otherwise. The Review Board attempts to intertwine disabilities basing their rationale in rating separate and distinct disabilities as pyramiding. Counsel argues a back condition and a mental condition have no direct relationship and must be rated separately. Both conditions would find the member unfit for further service. The injury in service to applicant's back only triggered an underlying condition to manifest itself to such a severity discharge and retirement was warranted for both conditions. The Air Force again opines in their 24 April 1996 memorandum to the Board that "Then, only the back pain was rated, since that was the condition that rendered him unfit." Counsel contends that the condition of pain in and of itself is not a ratable entity under the law. Applicant's back condition, at the time of separation, was 'Lumbar Trauma to disc L5-S1, L4-5, L3-4, L2-3, L1-2, with sciatic radiculopathy, nerve system involvement and pain associated with an injury of such magnitude.' Relevant to this issue is also Pelvic Girdle Trauma sustained, which is rated separate and distinct; however, this condition significantly aggravates and contributes to the overall severity of the disability to the back. This does not pyramid the rating system; rather, it effectively and efficiently evaluates the unfitting conditions or defects and those which contribute to unfitness, which are considered in arriving at a rated degree of incapacity warranting retirement or separation for disability. Title 10, USC, Chapter 61, charges Service Secretaries with maintaining a fit and vital force. For an individual to be unfit, there may be a combination of disabilities which renders a person unfit and not merely a single disabling defect. Counsel does not choose to analyze the differences between Title 10, USC, and Title 38, USC. Instead, he carefully points out the strong relationship between the two, which was the intent in origin. In this case, the degree of disability requested is based upon the member's condition at the time of permanent disposition. Where it is optioned or otherwise directed to discharge a member from a

military service, all disabilities of ratable quality should be given adequate consideration in the disability percentage as it relates to a member's fitness for duty. Counsel concluded that, the applicant was not appropriately processed or rated in accordance with service requirements to meet its obligation in rating all disabilities which find him unfit for service and those which significantly contribute to unfitness.

Counsel's response is appended at Exhibit H-1.

ADDITIONAL AIR FORCE EVALUATION:

Pursuant to the Board's request, the AFBCMR Medical Consultant and Staff Judge Advocate (HQ ARPC/JA), provided a response to specific questions raised.

In response to the issue of medical hold, the AFBCMR Medical Consultant stated that a week after the applicant was called to active duty (February 1991), he fell in the shower, sustaining injuries and was treated in the Family Practice Clinic with medications and physical therapy. Over the next two months, he was treated as noted, and in April was demobilized and returned to his reserve unit. He was never put on profile in those two months and notes indicate that he was having radicular pain, an indication of more than just a contusion of the back muscles, but this was never investigated until after his return to his home unit in New Jersey. He was not put on medical hold or a profile during his two months of active duty.

The Medical Consultant stated that while applicant was not put on medical hold, the handling of his injury was not proper. When he continued to have significant symptoms with pain suggesting spinal disk disease, he should have had a radiologic investigation which would have shown what was later found: multilevel disk disease with spinal canal encroachment by bulging disks. He should have been put on medical profile, and his separation should have been held until resolution of symptoms or referral to a Medical Evaluation Board (MEB). Applicant was not placed on profile until July 1991 when he was given a 3-T(emporary) which required resolution within a year or permanent profiling. In September 1992, after extensive evaluations were undertaken, he was placed in a 4-P(ermanent) status which initiated the disability evaluation system (DES) referral and his subsequent separation with severance pay at 20 percent disability.

The Medical Consultant stated that "The proper thing to have done was as noted above. When his symptoms did not resolve, his medical hold should have resulted in an MEB, while still on active duty. It is most likely that the DES would have recommended a period on the Temporary Disability Retired List under VASRD Code 5299-5293, Intervertebral disk syndrome, severe,

40 percent disability rated. After an appropriate period of observation (18 months would have been sufficient to establish stability of this problem), applicant would have been reevaluated and then most likely separated with severance pay at 20% disability with moderate, recurring attacks of radicular pain."

With regard to a separation physical examination (PE), the Medical Consultant stated that a separation PE was not required of all Reserve members who were called to active duty during Desert Shield/Storm. Had the correct handling been initiated, a PE would have been accomplished in preparation for the MEB that would have convened.

As to whether or not applicant received proper counseling or denial of opportunity to establish a claim for his medical conditions, the Medical Consultant stated that this issue is somewhat moot. The applicant did file a claim with the Department of Veterans' Affairs (DVA). He had previously filed a claim with the DVA in January 1981, after his initial tour on active duty from 11 October 1976 to 1 May 1980, so he was aware of the availability of such recourse.

With regard to whether or not the Physical Evaluation Boards (PEBs) were aware of changes in applicant's status, the Medical Consultant stated that the applicant was evaluated by the Formal PEB on 9 November 1993 where he made a personal appearance. If he did not assure that all information on his status was known by the board, he was remiss in not seeing to this. By the applicant's own testimony, he was noted to be working a 40-hour week in his primary occupation although with symptoms of continuing intervertebral disk disease.

The Medical Consultant stated that the applicant should have been medically boarded, found unfit for duty and his name placed on the Temporary Disability Retired List (TDRL) in April 1991 at 40% disability (50% base pay compensation) until October 1992 (18 months) when he should have been separated with severance pay with 20% disability (after reevaluation found his condition stable). The final determination of 20% compensation is based on findings of the FPEB as noted above (see Exhibit E).

The Staff Judge Advocate, HQ ARPC/JA, stated that the applicant was entitled to continuation of pay when he was released from active duty due to disabling injuries incurred after being mobilized in support of operation Desert Shield/Storm.

JA stated that applicant's back injury interfered with his duty performance. Despite this, he was not placed on medical hold pending resolution or stabilization of his condition. This action appears to have been consistent with Air Force Reserve policy then in effect. HQ USAF/REP message of 7 April 1992, announced the Chief of the Air Force Reserves had directed a change in policy for reservists who were injured in the line of

duty while on orders for more than 31 days. The new policy was that such members would not be involuntarily released from those orders until final disposition of their case.

JA stated that during the interval between applicant's injury and his discharge, he received no disability-related compensation from the Air Force.

JA stated that according to Title 37 USC, if a member was physically disabled in the line of duty while serving on ordered active duty, and he was not fit for military duty, then he was entitled to active duty pay and allowances for the period of the orders, plus authorized travel time. If the disability continued beyond that interval, or if it recurred, the member was entitled to pay and allowances - less the full amount of all civilian income received for the disability period - for no more than six months. Under DOD Pay Manual (DoDPM), Chapter 7, Section F, a member's entitlement to these benefits ended with his separation for physical disability.

JA stated that the applicant never received any of the aforementioned entitlements. While assigned at [REDACTED], applicant should have been placed on medical hold for an interval sufficient to ascertain whether his injury would stabilize, and complete his disability processing if it wouldn't.

JA stated that the applicant was physically disabled in the line of duty. He was thereby entitled to compensation to alleviate the financial hardship this imposed on him in both his civilian and military pursuits. The Air Force denied him what he was due under federal law. Redress is therefore in order. A complete copy of this evaluation is appended at Exhibit F.

APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION:

The applicant reviewed the additional advisories from the AFBCMR Medical Consultant and HQ ARPC/JA and stated that he concurs with the findings regarding correction of his military records (see Exhibit H-2).

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. In this respect, we are in agreement with the opinion of the AFBCMR

Medical Consultant (Tab E) that, when the applicant's medical condition did not resolve, he should have been put on a medical profile, his separation held until resolution of the symptoms or referral to a Medical Evaluation Board (MEB). We noted the information in applicant's record reveals that subsequent to the recommended period of temporary retirement and after the proposed discharge date, the applicant was an active participant in the Air Force Reserve, earning a satisfactory year of Federal service for the Retirement Year Ending (RYE) 22 March 1992. In addition, for RYE 22 March 1993, he was credited with 43 points, and for the period ending 19 January 1994, he was credited with 18 points. The recommendation by the AFBCMR Medical Consultant was noted. However, in view of the applicant's Reserve participation subsequent to the proposed retirement and separation date, which resulted in his being credited with a total of 16 satisfactory years of Federal service, we believe the recommendation by the AFBCMR Medical Consultant's could potentially be the subject of further injustice. For this reason, and in view of the uncertainty with which any actions taken could possibly be affected by required offsets, we believe a more just solution would be to correct the records to show the applicant was temporarily retired because of physical disability on 19 January 1994 (his original discharge date), he be retained in that status for 18 months, and on 19 July 1995, final disposition was made in his case (separation with a 20 percent disability rating). As a consequence of the above actions, based on the implementation of legislation in October 1994 affecting Reserve member's in the same circumstances as the applicant, changing his date of separation would entitle him to request a transfer to the Retired Reserve Section awaiting pay at age 60 in accordance with the Early Reserve Retirement Program. We are aware that the aforementioned recommendation would render the applicant ineligible for severance pay. However, due to the circumstances of this case, we believe any possible injustice resulting from the Air Force's failure to place the applicant in continuation pay status would be more than rectified. We therefore conclude that the applicant's record should be corrected as indicated below.

4. Other than the aforementioned medical condition, we are not inclined to recommend approval of the applicant's request concerning his other medical conditions not being rated. In this respect, we agree with the opinion and recommendation of the respective Air Force office, HQ AFPC/DPPD, (Tab D) and adopt their rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. The evidence before us does not substantiate that any of the cited conditions (hip pain, hearing loss, tinnitus, hypertension, hyperlipidemia, anxiety and depression), standing alone, were unfitting at the time the applicant was evaluated. Therefore, in the absence of evidence to the contrary, we find no compelling basis to recommend approval of this request.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that:

a. On 18 January 1994, competent authority determined his unfitting condition, intervertebral disk syndrome, severe, VASRD Code 5299-5293, was rated at 40%.

b. He was not discharged on 19 January 1994, with entitlement to disability severance pay, but on that date, he was released from active duty and his name was placed on the Temporary Disability Retired List (TDRL).

c. On 18 July 1995, competent authority determined that the rating of his unfitting condition was 20%, rather than 40%; and, on that date, his name was removed from the TDRL and, effective 19 July 1995, he was discharged from the Air Force Reserve, with severance pay, or, provided he submits such a request, he was transferred to the Retired Reserve Section awaiting pay.

The following members of the Board considered this application in Executive Session on 9 April 1998, under the provisions of AFI 36-2603:

Mr. Henry C. Saunders, Panel Chair
Mr. Patrick R. Wheeler, Member
Mr. Gary Appleton, Member

All members voted to correct the records, as recommended. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 1 Jun 94, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFMPC/DPMMMR, dated 15 Dec 94.
- Exhibit D. Letters, HQ AFMPC/DPMAD, dated 13 Jan 95, and HQ AFPC/DPPD, dated 24 Apr 96.
- Exhibit E. Letter, AFBCMR Medical Consultant, dated 15 Aug 97.
- Exhibit F. Letter, HQ ARPC/JA, dated 12 Sep 97, w/atchs.
- Exhibit G. Letters, SAF/MIBR, dated 30 Jan 95, 3 Jun 96 and 3 Dec 97.
- Exhibit H. Letters from counsel, dated 2 Feb 95, w/atchs, and 5 Jun 96, and letter from applicant, dated 5 Jan 98.



HENRY C. SAUNDERS
Panel Chair



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

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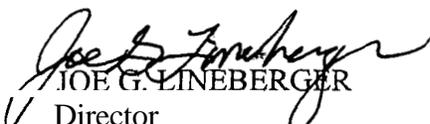
AFBCMR 94-03531

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] be corrected to show that:

- a. On 18 January 1994, competent authority determined his unfitting condition, intervertebral disk syndrome, severe, **VASRD** Code 5299-5293, was rated at 40%.
- b. He was not discharged on 19 January 1994, with entitlement to disability severance pay, but on that date, he was released from active duty and his name was placed on the Temporary Disability Retired List (TDRL).
- c. On 18 July 1995, competent authority determined that the rating of his unfitting condition was 20%, rather than 40%; and, on that date, his name was removed from the TDRL and, effective 19 July 1995, he was discharged from the Air Force Reserve, with severance pay, or, provided he submits such a request, he was transferred to the Retired Reserve Section awaiting pay.


JOE G. LINEBERGER
Director
Air Force Review Boards Agency