

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2006-03331
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

He be entitled to benefits under the Combat-Related Special Compensation (CRSC) program for his medical conditions associated with his foot, knee, shoulder, neck, ribs, and wrists.

The applicant amended his request for benefits under CRSC to also include tinnitus and gout.

APPLICANT CONTENDS THAT:

He recalls in the summer of 1964, he stepped into an open forward cargo hole of a C121 aircraft that was transporting troops to Vietnam. He believes his injuries to his foot, knee, shoulder, neck, ribs, and wrists entitle him to benefits under CRSC.

In addition, in 1962, the applicant worked outside on C133 aircraft, where his condition of tinnitus developed from his work on the flight line and during engine runs.

In support of his appeal, he provides two personal statements; a letter from his military medical provider, unsigned, and additional documents.

The applicant's complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

The applicant was relieved from active duty, on 31 Dec 80, for service retirement. He was credited with 20 years, 5 months, and 2 days of service for retirement.

By correspondence, dated 23 Apr 07, the applicant requested his case be administratively closed.

By letter, dated 17 Mar 11, the applicant requested his case be reopened, with additional information. In his request to reopen his application, the applicant amended his request to include CRSC benefits for tinnitus and gout.

AIR FORCE EVALUATION:

AFPC/DPPD recommends denial stating, in part, that his conditions of knee, shoulder, neck, ribs, and wrists do not meet the mandatory criteria for compensation under the CRSC program.

The applicant was partially approved, on 6 Oct 06, for Diabetes Mellitus.

However, they were unable to consider the conditions of his knee, shoulder, neck, ribs, and wrists since they were not service-connected. The applicant requested reconsideration of the Board's disapproval of compensation for these conditions through his Member of Congress; however, his appeal was denied on 7 Nov 06. In addition, with regard to the non-service-connected conditions of the knee, shoulder, neck, ribs, and wrists, they were unable to evaluate these conditions because the applicant had not been rated by the Department of Veterans Affairs (DVA).

The Combat-Related Special Compensation (CRSC) program, established by Public Law (PL) 107-314, provides compensation to certain retirees with combat-related disabilities. A retired member of the Uniformed Services must meet each of the four following conditions to meet the preliminary CRSC criteria:

a. Has 20 or more years of active service in the Uniformed Services for the purpose of computing the amount of retired pay, or is entitled to retired pay under section 12731 of Title 10, United States Code, unless such retirement is under section 12731b of that same title or **(the member is retired under Chapter 61 (disability retired).**

b. Is in retired status.

c. Is entitled to retired pay, notwithstanding that such retired pay may be reduced due to receipt of Department of Veterans Affairs (DVA) disability compensation.

d. Has qualifying disability ratings (percentages) [retiree must be entitled to compensation for service-connected disabilities under 10 USC 38 by the DVA].

Qualifying Combat-Related Disability: Member has combat-related disabilities (which include any Purple Heart disabilities) that are compensated by the DVA.

The complete AFPC/DPSDC evaluation, with attachments, is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant requests his case be reopened and amends his appeal to include, tinnitus and gout. The applicant indicates that the tinnitus condition developed during years of working on C133 aircraft on the flight line and during engine runs; and also a result of the fall into the cargo hole.

The condition of gout was due to the injury resulting from his fall into an open cargo hole. He developed pain in his wrists first, and then as classic gout with foot pain.

The applicant's complete response, with attachments, is at Exhibit F.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
 2. The application was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
 3. Insufficient relevant evidence has been presented to demonstrate the existence of error or injustice. We took notice of the applicant's complete submission in judging the merits of the case; however, we agree with the opinion and recommendation of the Air Force office of primary responsibility and adopt its rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. In addition, subsequent to the Air Force evaluation, we learned that the applicant's request for CRSC benefits for foot pain was approved with a compensable rating of 10 percent. Further, his conditions of the knee, shoulder, neck, ribs, wrists, tinnitus, and gout were denied since they were not deemed service-connected by the DVA. CRSC benefits are granted on the basis that a veteran is receiving compensation from the DVA for service-connected disabilities that has been deemed combat-related by the Air Force. Therefore, in the absence of evidence to the contrary, we find that relief beyond that already granted administratively is not warranted.
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The following members of the Board considered Docket Number BC-2006-03331 in Executive Session on 2 February 2012, under the provisions of AFI 36-2603:

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 22 Oct 06, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPPD, dated 13 Feb 07, w/atchs.
- Exhibit D. Letter, SAF/MRBR, dated 23 Feb 07.
- Exhibit E. Letter, AFBCMR, dated 26 Apr 07.
- Exhibit F. Letter, Applicant, dated 17 Mar 11, w/atchs.

Panel Chair