



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2011-04247

XXXXXX

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

The narrative reason for his separation be changed to either a medical separation or medical retirement.

APPLICANT CONTENDS THAT:

He was denied reenlistment due to his medical condition, i.e., lower back pain, which was sustained while on active duty during a deployment and was told that he was not fit to fight.

Despite the fact that two separate Medical Evaluation Boards (MEBs) recommended that he be returned to duty he was not allowed to reenlist.

He was unaware of an error or an injustice in his records until he received a 2011 email, indicating that veterans discharged between 11 September 2001 and 31 December 2009, could possibly be entitled to a medical retirement.

In support of the appeal, the applicant submits a copy of his DD Form 214, *Certificate of Release or Discharge from Active Duty* and a Department of Veterans Affairs letter, dated 3 August 2001, indicating his entitlement to compensation for a service-connected disability rating at 10 percent.

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

STATEMENT OF FACTS:

The applicant is a former Regular Air Force enlisted member, who served on active duty from 10 March 1999 through 14 May 2008.

On 3 September 2003, he injured his lower back while loading a cargo pallet during a deployment.

In 2005, he met an MEB, as a result of low back pain which prevented him from departing on a Permanent Change of Station (PCS) assignment. He was found fit for duty, worldwide qualified and was returned to duty, so that he could complete the PCS.

While overseas, on 28 June 2005, he was identified as requiring another MEB based on the condition of his back and the MEB recommended that he meet an IPEB. On 27 November 2006, an IPEB found him fit for duty and returned to duty, with an assignment limitation code limiting his worldwide availability.

On 29 May 2007, he underwent surgery to excise his left lumbosacral disc prolapsed, along with a thorough neurolysis of his left S1 root.

On 14 May 2008, he was honorably discharge for completion of required active service and issued a Reentry (RE) code of 4K (Medically disqualified for continued service or pending evaluation by MEB/PEB.)

A 14 July 2008 DVA rating decision indicates that effective 15 May 2008, the applicant was awarded service connection for a herniated intervertebral disc with status post-operative excision of disc, with a rating of 10 percent.

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. Sufficient relevant evidence has been presented to demonstrate the existence of an error to warrant correcting the RE code assigned at the time of his separation to reflect "3K," which is reserved for use by either AFPC or this Board when no other RE Code applies or is appropriate. Although the applicant has not requested correction of his RE code, we note that since he was found fit for duty and was in fact returned to duty, it is incorrect and does not properly identify the circumstances surrounding his separation. In this respect, we note that at the time of his separation, he was no longer medically

disqualified for continued service or pending evaluation by either an MEB or PEB. Therefore, we recommend his records be corrected to the extent indicated below.

4. Notwithstanding the above, insufficient relevant evidence has been presented to warrant favorable consideration of the applicant's request to change the narrative reason for his separation to reflect that he was separated due to a medical condition. As indicated above, although he was twice processed through the Disability Evaluation System (DES), each time he was returned to duty and should not have received an RE code of "4K" at the time of his separation. Further, in regard to his contention that he was told that he was not fit to fight, the evidence of record suggests that if in fact he was told this, it was in reference to his physical fitness, as the IPEB noted their fit for duty finding did not constitute or support a fitness waiver and reminded the applicant and his commander of the requirements of the Fitness Program. While the applicant contends that he was denied an opportunity to reenlist due to his medical condition, he provides no evidence to support this contention. However, should he provide evidence to support this contention, we would be willing to entertain his request for reconsideration at that time. However, based on the evidence before us, we find no basis upon which to recommend favorable consideration of his request to change the narrative reason for his separation.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that at the time of his honorable discharge on 14 May 2008, he was issued a reentry code of "3K."

The following members of the Board considered AFBCMR Docket Number BC-2011-04247 in Executive Session on 28 August 2012, under the provisions of AFI 36-2603:

XXXX, Panel Chair
XXXX, Member
XXXX, Member

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

Exhibit A. DD Form 149, dated 28 Oct 2011, w/atchs.
Exhibit B. Applicant's Master Personnel Records.

XXXX
Panel Chair