

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00157
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His service-connected medical conditions, impaired hearing and tinnitus, be assessed as combat-related in order to qualify for compensation under the Combat Related Special Compensation (CRSC) Act.

APPLICANT CONTENDS THAT:

He was exposed to the roar of jet engines which caused his hearing loss. He believes his conditions should be approved for CRSC under the Instrumentality of War criteria.

In support of his request, the applicant provides a copy of AFPC/DPSDC letter, dated 25 October 2011.

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

STATEMENT OF FACTS:

The applicant retired from the Air Force on 2 June 2003 in the grade of master sergeant, having served 26 years, 10 months, and 7 days on active duty. His service for basic pay totaled 34 years, 8 months and 8 days.

Available Department of Veterans Affairs (DVA) records reflect a combined compensable rating of 10% for his unfitting conditions.

His CRSC application was disapproved on 25 October 2011 based upon the fact that his service-connected medical conditions were determined not to be combat-related.

AIR FORCE EVALUATION:

AFPC/DPSDC recommends denial. DPSDC states that the applicant stated in his original claim his conditions were incurred while serving at the 934th Airlift Wing when he was exposed to the roar of jet engines, and from being exposed to small arms fire in basic training and academic instructor training. He believes his conditions should be approvable for CRSC under the Instrumentality of War (IN) criteria. He DD Form 214 reflects his duties as a cook in the Army and medical records provided reflect he was assigned to the 934th Civil Engineering Squadron. Several entries indicate he was a food handler or cook, and one entry indicates he was an engineering craftsman.

In accordance with DD Form 2860, *Claim for Combat-Related Special Compensation (CRSC)*, an Instrumentality of War (IN) 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. There must be a direct, documented, causal relationship between the IN and the resulting disability (injury must be caused by the device itself). While military aircraft are considered instruments of war we must look for a direct link between the IN and the disability.

When determining if a person qualifies for CRSC due to impaired hearing or tinnitus

To award CRSC for hearing or tinnitus, there must be clear documentation of an acoustic trauma occurring due to a combat-related event (such as a medical document showing "member is complaining of ringing in ears/hearing loss after guarding an aircraft overnight when the engine was running" or "...after munitions explosion."

By CRSC law, determinations of whether a disability is combat related will be based on the preponderance of available documentation information. All relevant documentary information is to be weighed in relation to known facts and circumstances, and determinations will be made on the basis of credible, objective documentary information in the records as distinguished from personal opinion, speculation, or conjecture. Documentation provided does not confirm the applicant's conditions were the direct result of a combat-related acoustic trauma. Therefore, these conditions do not meet the mandatory criteria for compensation under the CRSC program.

The complete DPSDC's complete evaluation, with attachments, is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

On 27 April 2012, the evaluation was forwarded to the applicant for review and comment within 30 days (Exhibit D). As of this date, this office has received no response.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
 2. The application was timely filed.
 3. Insufficient relevant evidence has been presented to demonstrate the existence of error or injustice. The available evidence of record does not support a finding that the service-connected medical conditions the applicant believes are combat-related were incurred as the direct result of armed conflict, while engaged in hazardous service, in the performance of duty under conditions simulating war, or through an instrumentality of war; and, therefore, does not qualify for compensation under the CRSC Act. 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 the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.
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THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of an error or injustice; the application was denied without a personal appearance; and the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered AFBCMR Docket Number BC-2012-00157 in Executive Session on 13 November 2012, under the provisions of AFI 36-2603:

The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-00157 was considered:

- Exhibit A. DD Form 149, dated 3 January 2012, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSDC, dated 12 April 2012, w/atchs.
- Exhibit D. Letter, SAF/MRBR, dated 27 April 2012.