

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00461  
COUNSEL: NONE  
HEARING DESIRED: NO

---

---

APPLICANT REQUESTS THAT:

1. His separation date be changed from 31 May 04 to 18 Aug 04.
2. In the alternative, the Defense Finance and Accounting Service (DFAS) be directed to approve Combat Related Special Compensation (CRSC) and Concurrent Retirement and Disability Pay (CRDP) per Title 10, United States Code (USC).

---

---

APPLICANT CONTENDS THAT:

1. He completed 19 years, 9 months and 14 days and feels that it is an injustice not to be allowed to complete two months and 15 days which would have given him 20 years of active service.
2. He was not reasonable or competent at the time of his medical evaluation board (MEB) or discharge. In fact, he was clearly unable to make decisions, agree to the terms of his retirement or sign any legally binding documents. He was misdiagnosed, under medicated and had no professional counseling for the issue which he was discharged (Mental Health). He was diagnosed by the Department of Veterans Affairs (DVA) as having Post-Traumatic Stress Disorder (PTSD).
3. He was never informed that he would lose his entitlements to CRSC and CRDP because he retired prior to reaching 20 years of active duty service. He was assured the Air Force "always" granted full retirement to personnel who were within 3 months of completing 20 years on active duty. In his diminished capacity, he trusted what was said and signed the paperwork.
4. There was no mental health counselor available to assist mental health patients in understanding the MEB process.

In support of his request, the applicant provides a personal statement, copies of AF Form 356, *Findings and Recommended Disposition of USAF Physical Evaluation Board*; DD Form 214, *Certificate of Release or Discharge from Active Duty*; *Enlisted Performance Reports*; AF Form 102, *Inspector General Personal and Fraud, Waste and Abuse Complaint Registration*; AF Form 3070, *Record of Non-judicial Punishment Proceedings*, and other documentation associated with his request.

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

---

---

STATEMENT OF FACTS:

On 18 Feb 04, a MEB convened to consider the applicant for continued active duty. The board recommended the applicant be referred to an Informal Physical Evaluation Board (IPEB) for General Anxiety Disorder, existed prior to service (EPTS).

On 15 Mar 04, the IPEB reviewed the case and found the applicant unfit and recommended permanent retirement and a disability rating of 30 percent. On 31 Mar 04, the applicant concurred with the findings and recommended disposition of the IPEB.

On 31 May 2004, the applicant was permanently retired with a disability rating of 30 percent. He completed 19 years, 9 months and 14 days of active duty service.

On 1 Dec 04, the DVA awarded him a compensable disability rating of 10 percent for General Anxiety Disorder. On 6 Sep 08 and 15 Nov 10, the DVA subsequently raised it to 30 and 70 percent respectively. In addition, he was granted Individual Unemployability for a total compensable disability rating of 100 percent.

On 8 Feb 12, the applicant applied for CRSC for anxiety disorder. On 28 Mar 12, his claim was disapproved. No evidence was provided to confirm his disability was the direct result of armed conflict, hazardous service, instrumentality of war, or simulating war.

---

---

AIR FORCE EVALUATION:

AFPC/DPSDC recommends denial of the applicant's request that his anxiety disorder be approved for CRSC. DPSDC states the applicant's conditions do not meet the mandatory criteria for compensation under the CRSC program as outlined under the provisions of Title 10, U.S.C., Section 1413a. Simply being involved in simulated combat operations, hazardous service or an instrumentality of war is not sufficient for a combat-related determination. Documentation does not confirm his anxiety disorder was caused by a specific combat-related event.

The applicant feels his anxiety disorder meets the requirements for Hazardous Events, Simulating War and Instrumentality of War. In his original request, the applicant stated his anxiety disorder was the result of repeated traumatic events occurring over a period of 12 years to include:

a. The loss of 13 C-130 aircraft in crashes and he knew some of the individuals who died.

b. Dangerous in-flight emergencies and performing loadmaster duties, including the preparation of human remains.

c. Upon being airborne and nearing completion of a functional check flight, the aircraft he was in flew higher and began an accelerated descent; he was thrown up in the aircraft hitting the roof with his head, buttock and feet, then fell 10 feet back to the floor.

d. He was on a fully loaded and fueled aircraft when, after takeoff, the rudder boost pack blew a hydraulic seal and upon return the aircraft landed hard.

In regards to the combat-related criteria of Hazardous Service and Simulating War, in accordance with (IAW) DD Form 2860, *Claim for Combat-Related Special Compensation*, the fact that a member incurred a disability during a period of Simulating War, in an area of simulated armed conflict, while participating in simulated combat operations or during a period of hazardous service is not sufficient by itself to support a combat-related determination. There must be a definite, documented, casual relationship between the simulated armed conflict or HS and the resulting disability.

When making combat-related determinations for anxiety disorders the board looks for instances of direct exposure to a combat-related event, such as direct exposure to gunfire or mortar attack, or surviving an aircraft crash. Anxiety Disorder "stressors" attributed to the death of individuals, where the member was not directly involved in the event that caused the death(s) do not qualify for CRSC. While the loss of co-workers and the handling of human remains is certainly traumatic, this does not show a direct combat-related link sufficient to approve his condition for CRSC. The individuals on the aircraft that crashed or the individuals who were injured or killed in combat demonstrate a direct link.

While the board concedes the applicant did perform hazardous duties as a loadmaster, the issue at hand is whether a specific combat-related event was the direct cause of his condition. The applicant's related experiences of in-flight emergencies could be potentially approved for CRSC. However, by law, determinations of whether a disability is combat-related will be based on the preponderance of available documentary information. The documentation provided does not confirm he experienced a combat-related event as he describes or that his anxiety disorder is the direct result of a combat-related event.

While the applicant's conditions meet the VA requirements for service-connected compensation (manifested while in service), the evidence does not support additional compensation under

CRSC. The process and standards for determinations are governed under different guidance and the decision does not automatically qualify a disability as combat-related under current criteria.

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

AFPC/DPSD recommends denial of the applicant's request to change his date of separation. DPSD states the applicant is requesting his DOS be changed to qualify for the CRDP Program. CRDP or "concurrent receipt" as it is sometimes referred to - is a phased-in restoration of the retired pay deducted from military retirees' accounts due to their receipt of DVA compensation. Retired military members entitled to CDRP automatically began receiving benefits as of Jan 04. Eligibility for CRDP requires at least 20 years of creditable service IAW 10 U.S.C. §1414(b) (1).

DPSD states the applicant does not have the required 20 years of service time to apply for CRDP.

The complete DPSD evaluation is at Exhibit D.

---

---

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

By undated letter, the applicant states his application is non-traditional in that it deals with a psychological injury rather than a physical injury. The applicant states his updated information will help explain his claim and justify his inclusion in the CRSC program.

The applicant's complete submission, 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. The applicant is requesting his DOS be change from 31 May 04 to 18 Aug 04 in order to qualify for compensation under the CRDP and CRSC Act. After a thorough review of the evidence of record, we do not find persuasive evidence that his DOS is in error or that he was not afforded all the rights to which entitled at the time of

discharge. While the applicant believes his discharge with less than 20 years is an injustice, we do not agree. He has not presented any evidence that supports his discharge for unfitness should have been delayed. In our view, to deliberately delay his separation on the basis of allowing him to complete 20 years of service after it was determined he was no longer fit would have been improper and afforded him rights not available to others similarly situated. As such, 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.

---

---

THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of error or injustice; that the application was denied without a personal appearance; and that 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-2012-00461 in Executive Session on 14 Nov 12, under the provisions of AFI 36-2603:

Panel Chair  
Member  
Member

The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-00461 was considered:

- Exhibit A. DD Form 149, dated 27 Jan 12, w/atchs.
- Exhibit B. Applicant's Master Personnel Record.
- Exhibit C. Letter, AFPC/DPSDC, dated 10 Apr 12, w/atchs.
- Exhibit D. Letter, AFPC/DPSD, dated 26 Apr 12.
- Exhibit E. Letter, SAF/MRBR, dated 7 May 12.
- Exhibit F. Letter, Applicant's Response, undated.

Panel Chair