

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00871
COUNSEL: DAV
HEARING DESIRED: YES

APPLICANT REQUESTS THAT:

His records be evaluated to include service-connected ratings for the following conditions:

1. His left wrist.
 2. His neck and shoulder.
 3. His lower back.
 4. His scoliosis, degenerative disc disease, sciatic nerve problems.
 5. Numbness in his left thigh.
 6. His eye condition (glaucoma in both eyes)
 7. Bursitis.
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APPLICANT CONTENDS THAT:

His medical records need to be corrected; they list him as being rated for Hypochondrias.

The Air Force refused/failed to evaluate him for the above mentioned medical conditions.

Due to his commander's persuasion, his physicians ignored the medical technician's comments of abnormal results in favor of a rating for hypochondrias.

He has been appealing both the Air Force (Hypochondrias) and the Department of Veterans Affairs (DVA) (Psychogenic Pain Disorder-Neurosis) from the onset of the medical decisions back in 1983 and 1984.

In 1984 and 1985 the Air Force informed him and his chiropractor that he had not been hospitalized and no medical records existed. A letter to President Reagan in 1986 brought forth a copy of his Air Force medical records without the X-rays and supporting documents requested.

The DVA destroyed his Disability Claims folder that was established in Dec 80 and continued through Jan 84. He was informed of this during a DVA appeals hearing in Sep 09 and of

their attempt to rebuild a new folder. The DVA destroyed his medical records from the Air Force, DVA, and Professional records.

The DVA is only awarding service-connected disability back to 2006, when they rebuilt his disability claims folder-not from the date of his discharge.

In 1983 the physical evaluation board (PEB) labeled him a "hypochondriac" when he complained of a pinch in his neck, shoulder pain, low back, hip and leg pain, fire going down his legs causing a numb left thigh, his knees giving out, walking, standing and sitting problems, a loss of 1.5 inches in height, and eye problems. Air Force x-rays revealed a compression fracture (low back), degenerative disc disease, narrow disc spacing, scoliosis, and a greenstick fractured tailbone. He was discharged in Jan 84, being falsely rated for hypochondrias with severance pay, while ignoring his eye problems.

All of the above claims originated while he was in the service and are documented in his Air Force medical records.

In support of his request, the applicant provides a personal statement, copies of surgical records, a chiropractic exam, an excerpt of from his medical history, his PEB transcripts and board findings, Department of the Air Force letter regarding missing medical records, and a statement from his former supervisor.

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

STATEMENT OF FACTS:

While serving on active duty in the Regular Air Force, the applicant was processed through the disability evaluation system (DES).

On 1 Sep 83, he underwent a Medical Evaluation Board (MEB) for "Psychogenic pain disorder, chronic, moderate, manifested by severe pain with no organic pathology found" and was referred to an Information Physical Evaluation Board (IPEB).

On 7 Sep 83, the IPEB found him unfit and recommended discharge with severance pay with a 10 percent disability rating for psychogenic pain disorder with moderate social and industrial impairment, associated with chronic low back and neck pain. The applicant disagreed with this decision and appealed to the Formal Physical Evaluation Board (FPEB) that the percentage be increased, and that he at least be placed on the Temporary Disability Retired List (TDRL). The FPEB upheld the decision of the IPEB to separate the applicant with severance pay with a 10 percent disability rating. The FPEB found the applicant's psychogenic pain disorder with moderate social and industrial

impairment, associated with chronic low back and neck pain was incurred in the line of duty in a time of war. The FPEB concluded the applicant was unfit for duty and recommended discharge with severance pay and a 10 percent disability rating.

The applicant did not agree with the decision of the FPEB, and submitted a rebuttal statement to the Secretary of the Air Force Personnel Council (SAFPC). The SAFPC concurred with the decision of the FPEB and recommended a disability discharge with 10 percent disability rating.

The applicant was discharged with severance pay, by reason of physical disability with a 10 percent disability rating. At the time of his discharge he was credited with 7 years, 4 months, and 15 days of service for pay.

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. After a thorough review of the evidence of record and careful consideration of the applicant's contentions, we are not persuaded that he has been the victim of an error or injustice. The applicant requests a change in his medical records to show that he was evaluated and rated for an eye condition, and injuries to his neck, back, shoulder, left hand, hips and legs. He contends these injuries were ignored at the time of his processing through the DES. However, the evidence provided does not reflect that any of these complaints were considered individually unfitting at the time of the applicant's MEB and release from military service. We note the military Disability Evaluation System (DES), operating under Title 10, United States Code (U.S.C.), can by law only offer compensation for the illness, injury, or disease that is the cause for career termination; and then only to the degree of impairment present at the time of final military disposition. Operating under a different set of laws [Title 38, U.S.C.], the DVA is authorized to offer compensation for any medical condition with an established nexus with military service; without regard to its demonstrated impact upon a member's fitness to serve. This is the reason why an individual may be released from active military service for one reason and sometime thereafter receive a compensation rating for one or more other conditions that were not considered individually unfitting at the time of release from military service. Moreover, the DVA is empowered to conduct periodic re-evaluations for the purpose of adjusting the disability ratings [decrease or increase] as the level of functional impairment from a given medical condition may vary

[improve or worsen] over the lifetime of the veteran. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.

4. The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issues involved. Therefore, the request for a hearing is not favorably considered.

THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of material 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 Docket Number BC-2012-00871 in Executive Session on 4 Jan 12, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 17 Feb 12, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.

Panel Chair