

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01031
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

1. His record be corrected to reflect that an injury he received while a member of the Air Force Reserve (AFR) be reflected as a Traumatic Brain Injury (TBI).
 2. He be granted a disability retirement from the AFR.
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APPLICANT CONTENDS THAT:

1. On 28 Mar 90, while loading technical orders he fell and hit his head against a metal strip on the loading dock. He continued working unaware he had ruptured a blood vessel in his head.
2. On 11 and 29 Apr 90, he underwent two surgeries to repair the broken blood vessel and relieve the pressure caused by the massive subdural hematoma. Since his injury, he has had psychological and emotional problems, which have made it impossible for him to continue his military career.
3. He had 18 years of service (active duty, Air National Guard (ANG) and AFR) at the time of his injury.
4. On 18 Dec 94, he should have been medically retired from the AFR rather than being honorably discharged. He was discharged because he stopped reporting for duty due to the problems resulting from his head injury.

In support of his request, the applicant provides copies of his reserve orders, DD Forms 214, *Certificate of Release or Discharge from Active Duty*; NGB Form 22, *Report of Separation and Record of Service*; DD Form 214-3, *Report of Separation from Active Duty*, medical records, eye witness statements and other documentation associated with his request.

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

STATEMENT OF FACTS:

Data extracted from the Military Personnel Data System (MilPDS) indicates the applicant initially entered uniformed service on 8 Sep 66 and was discharged from the Air Force Reserve on 18 Dec 94.

The applicant served in support of Operations DESERT SHIELD/STORM during the following periods: 5-6 Mar 91; 9-10 Mar 91; 16-17 Mar 91; 23 Mar 91; 30-31 Mar 91; 13-14 Apr 91; 20-21 Apr 91; 27-28 Apr 91; 11-12 May 91; 18-19 May 91; 25-27 May 91; 8-9 Jun 91; 15-16 Jun 91; 22-23 Jun 91 and 29-30 Jun 91.

The remaining relevant facts pertaining to this application are contained in the letter prepared by the appropriate offices of the Air Force, which is attached at Exhibits B and C.

AIR FORCE EVALUATION:

AFRC/SGP recommends denial. In accordance with (IAW) AFI 36-2910, *Line of Duty (Misconduct) Determination* a line of duty (LOD) should have been completed through appropriate military channels. No LOD was presented in the applicant's request. In addition, the medical records provided are silent from the time of the operative treatment in 1990 until 2010.

The subdural hematoma would not, in and of itself, have been necessarily disqualifying for continued military service IAW AFI 48-123, *Physical Exams and Standards*. As noted on the operative report, the applicant was discharged from the hospital in good condition. Absent medical records showing sequelae, it is impossible to medically state that a disability did in fact arise from the accident.

The complete SGP evaluation is attached at Exhibit B.

AFRC/A1K states that, absent a medical determination from an authoritative medical source validating the medical condition presented by the applicant warranted him being processed via the Disability Evaluation System (DES), AFRC has no basis for supporting the applicant's request.

A1K states the applicant has not provided any documentation to support that a military line of duty (LOD) determination was initiated and subsequently approved as being in the LOD for the injury in question.

The complete A1K evaluation is at Exhibit C.

APPLICANT'S REVIEW OF THE ADDITIONAL AIR FORCE EVALUATION:

The applicant disagrees with the AFRC/A1K and SAF/MRBR recommended disapproval decisions. He states the AFR failed to acknowledge he was honorably discharged from the active Reserve service without ever being given a medical/physical examination as required by Department of Defense and Air Force Regulation and Standards. He never received any completed LOD or authorization documents for his Traumatic Brain Injury (TBI) and has spent many years trying to track down the source of such documents.

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

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 opinions and recommendations of the Air Force offices of primary responsibility and adopt their rationale as the basis for our conclusion the applicant has not been the victim of an error or injustice. The applicant contends that he never received a completed, Line of Duty determination or authorized documents for his TBI and had one been completed he would have been disability retired from the Air Force Reserves due to said diagnosis. However, as pointed-out by AFRC/SGP subdural hematoma would not, in and of itself, have been necessarily disqualifying for continued military service. In addition, we see no evidence which would lead us to believe that at the time of his separation, a physical condition existed that was determined by competent medical authority to be a physical disability which specifically rendered him unfit for continued military service. Therefore, we conclude that the applicant has failed to sustain his burden of proof that he has been the victim of an error or injustice. In view of the above and 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 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 AFBCMR Docket Number BC-2012-01031 in Executive Session on 15 Nov 12, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 1 Mar 12, w/atchs.
- Exhibit B. Letter, AFRC/SGP, dated 1 Oct 12.
- Exhibit C. Letter, AFRC/A1K, dated 1 Oct 12.
- Exhibit D. Letter, SAF/MRBR, dated 3 Oct 12.
- Exhibit E. Letter, Applicant, dated 29 Oct 12, w/atchs

Panel Chair