

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-02176  
COUNSEL:  
HEARING DESIRED: YES

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APPLICANT REQUESTS THAT:

He be allowed to undergo a Medical Evaluation Board (MEB) and disability processing for a history of recurrent cerebral vascular accidents.

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APPLICANT CONTENDS THAT:

He was clearly on active duty when his injuries were incurred; therefore, he is entitled to be processed through the Disability Evaluation System (DES).

He suffered a stroke while on active duty on or about 7 September 2010. He was admitted to a local hospital for a headache, tingling tongue, and blurry vision. He was subsequently discharged on 8 September 2010, without a determination as to the cause of his symptoms. He suffered another stroke on 8 February 2011 while on active duty to attend a class from 7 February 2011 to 1 March 2011. He was admitted to the emergency room for treatment and was released from the hospital on 11 February 2011.

He was subsequently found to be temporarily medically disqualified and was given 60 days to provide the Air Force with medical documentation regarding his injuries. On 18 February 2011, he was found to be non-deployable as a result of his medical condition. As a result, he was separated from the Reserves as being medically unfit for a condition not acquired in the line of duty.

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

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STATEMENT OF FACTS:

The applicant is a former member of the United States Air Force Reserve (USAFR) who served in the grade of staff sergeant (E-5).

While serving on an active duty tour from 4 April 2010 through 30 September 2010, the applicant was admitted to a local hospital with a headache and blurred vision. He was discharged on 8 September 2010 without diagnosis. A neurology consult obtained

at that time revealed consideration that his condition was caused by medication, although an MRI did reveal areas of old infarct. A line of duty (LOD) was submitted and he was found in the LOD for this acute episode for which he was hospitalized in order to ensure his hospital costs were covered.

In February 2011, the applicant was again on a short tour of active duty from 7 February 2011 through 14 February 2011. On 8 February 2011, the applicant was admitted to a local hospital for left hand numbness. He was diagnosed with acute recurrent ischemic cardio vascular accident (CVA). A CT at the time of admission revealed atrophy and small vessel disease consistent with age as well as an old right MCA infarct. The applicant was maintained on orders to undergo medical evaluation and follow-up. An LOD was submitted for recurrent CVA, which was found as existed prior to service (EPTS)-LOD not applicable.

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AIR FORCE EVALUATION:

AFRC/SG recommends denial. SG states that to find the applicant's underlying cause of his condition to be in the LOD is not reasonable given he had evidence of recurrent, pre-existing disease. There is no question the applicant was in status at the time of his two episodes of transient infarct. Both events, including hospitalization and work-up, were the responsibility of the Air Force. However the underlying disease process is long-standing and not related to duty.

The complete SG evaluation is at Exhibit B.

COUNSEL'S REVIEW OF AIR FORCE EVALUATION:

No entity in the Air Force is more member hostile than AFRC. AFRC's denial of LOD status is a recurring theme. There is no proof, as suggested in the advisory opinion, that the "underlying disease process is long-standing and not related to duty." There is no legal requirement that a condition be "related to duty." It merely has to occur while the member is entitled to basic pay. During these episodes, the applicant was entitled to basic pay. To the extent the applicant's condition was EPTS, the fact does not mitigate the actual unfitting events occurred on active duty. Since the applicant did not meet retention standards while on active duty, an MEB should have been initiated. The applicant deserves an MEB as the acute events which rendered him unfit for duty occurred while he was on active duty.

The counsel's complete rebuttal is at Exhibit D.

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 an error or an injustice. After a thorough review of the evidence of record, we see no evidence of error or impropriety in the LOD process and are not persuaded by the applicant's contentions, that he has been the victim of an injustice. It appears the applicant's medical case was properly evaluated under the appropriate Air Force regulations, which implement the law. Therefore, 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 the applicant has not been the victim of an error or injustice. While we note counsel asserts the applicant is entitled to an MEB, the preponderance of evidence of record suggests the applicant's predisposition for strokes and his military service were unrelated and the mere fact that at least one stroke resulted in his disqualification for continued service was likely considered insufficient to establish a casual or aggravating relationship with military service. We are not unsympathetic toward the applicant; however, evidence has not been presented which would lead us to believe that the determination of EPTS-LOD not applicable for recurrent CVA was erroneous or unjust. 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 AFBCMR Docket Number BC-2012-02176 in Executive Session on 23 January 2013, under the provisions of AFI 36-2603:

, Panel Chair  
, Member  
, Member

The following documentary evidence was considered for AFBCMR Docket Number BC-2012-02176:

- Exhibit A. DD Form 149, dated 19 Apr 12, w/atchs.
- Exhibit B. Letter, AFRC/SG, dated 25 Jun 12.
- Exhibit C. Letter, SAF/MRBR, dated 2 Jul 12.
- Exhibit D. Letter, Counsel, dated 30 Jul 12.

Panel Chair