

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-03317

COUNSEL: NONE

HEARING DESIRED: YES

APPLICANT REQUESTS THAT:

His official records be corrected to show that he was medically retired from active duty.

APPLICANT CONTENDS THAT:

He was forced to accept the findings and recommendations of his Medical Evaluation Board (MEB) even though he did not agree with them. He was given the MEB results and was told to make a decision about whether he would accept the findings and recommendations in a matter of days. He wanted to challenge the MEB results through the normal process, but was unable to get a waiver from taking his Fitness Assessment (FA), which he could not pass due to his injury. His supervisor and commander told him if he failed another FA he would be separated with a Bad Conduct Discharge (BCD), so he felt he had to accept the MEB results.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS:

The applicant initially entered the Air Force on 24 Sep 02, and was progressively promoted to the rank of Staff Sergeant.

On 2 Feb 10, the applicant submitted a Letter of Exception to AFPC/DPAMM, outlining his medical issues and requesting he be medically separated, stating in part, "after the past year of issues with my PT test and with the constant pain I was in training and still not passing my PT test, I don't feel like I will be able to continue to be a productive member of the Air Force."

On 8 Jul 10, the applicant met an Informal Physical Evaluation Board (IPEB) due to recurring knee pain in both knees associated with patellofemoral pain syndrome and decreased range of motion. The remarks section of the IPEB findings stated "The service

member has a medical condition which prevents him from reasonably performing the duties of his office, grade, rank, or rating. Duty restrictions include no running or prolonged walking. (The physician) states the prognosis is poor; the service member has had knee pain for four years; and he has had no relief with multiple knee injections, physical therapy and bracing. The commander states the service member's inability to pass the fitness test and remain fit-to-fight is not in keeping with today's warrior Airman." The IPEB found the applicant unfit and recommended his discharge with a disability rating of 20% and severance pay.

On 20 Jul 10, the applicant initialed the following statement on his AF Form 1180, *Action on IPEB Finding and Recommended Disposition*, "I agree with the findings and recommended disposition of the IPEB and am waiving the right to a formal PEB hearing."

On 21 Jul 10, the Secretary of the Air Force directed the applicant be separated from active service with severance pay for physical disability.

On 27 Sep 10, the applicant was discharged for disability with severance pay, issued an honorable discharge certificate, and credited with eight years and four days of active service.

The remaining relevant facts pertaining to this application are described in the letter prepared by the Air Force office of primary responsibility, which is included at Exhibit C.

AIR FORCE EVALUATION:

AFPC/DPSD recommends denial, indicating that there is no evidence of an error or injustice. The applicant did not submit any new additional medical evidence to support his contention. While the applicant disagreed with the IPEB's recommendation, he could have appealed to have his case reviewed by both a Formal PEB and, if necessary, to the Secretary of the Air Force Personnel Council (PERSCOUNCIL) for their review and finalization. The applicant did not exercise these rights of appeal. In addition, the member's Letter of Exception, dated 2 Feb 10, stated: "After thinking for a long time about what would be best for myself, my family, and the Air Force I have decided that I would like to be medically separated."

A complete copy of AFPC/DPSD evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 27 Aug 12 for review and comment within 30 days.

As of this date, no response has been received by this office (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 injustice. We took notice of the applicant's complete submission in judging the merits of the case; however, we agree with the opinion and recommendation of the Air Force office of primary responsibility (OPR) and adopt its rationale as the basis for our conclusion the applicant has not been the victim of an error of injustice. 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.
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THE BOARD DETERMINES THAT:

The applicant be notified the evidence presented did not demonstrate the existence of material 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-2012-03317 in Executive Session on 12 Mar 13, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary was considered:

- Exhibit A. DD Form 149, dated 16 Jul 12.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSD, dated 20 Aug 12.
- Exhibit D. Letter, SAF/MRBR, dated 27 Aug 12.

Panel Chair