

FEB 09 1998

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NO: 97-00051

COUNSEL: [REDACTED]

HEARING DESIRED: NO

Applicant requests that her separation be changed to a medical retirement. Applicant's submission is at Exhibit A.

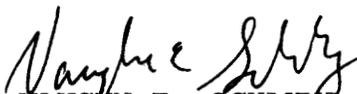
The appropriate Air Force offices evaluated applicant's request and provided advisory opinions to the Board recommending the application be denied (Exhibit C). The advisory opinions were forwarded to the applicant and her counsel for review and response (Exhibit D). As of this date, no response has been received by this office.

After careful consideration of applicant's request and the available evidence of record, we find insufficient evidence of error or injustice to warrant corrective action. The facts and opinions stated in the advisory opinions appear to be based on the evidence of record and have not been rebutted by applicant or counsel. Absent persuasive evidence applicant was denied rights to which entitled, appropriate regulations were not followed, or appropriate standards were not applied, we find no basis to disturb the existing record.

Accordingly, applicant's request is denied.

The Board staff is directed to inform applicant of this decision. Applicant should also be informed that this decision is final and will only be reconsidered upon the presentation of new relevant evidence which was not reasonably available at the time the application was filed.

Members of the Board Mr. Vaughn E. Schlunz, Ms. Dorothy P. Loeb, and Mr. David W. Mulgrew considered this application on 5 February 1998 in accordance with the provisions of Air Force Instruction 36-2603, and the governing statute, 10, U.S.C. 1552.

  
VAUGHN E. SCHLUNZ  
Panel Chair

Exhibits:

- A. Applicant's DD Form 149
- B. Available Master Personnel Records
- C. Advisory Opinions
- D. SAF/MIBR Ltr Forwarding Advisory Opinions

DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AIR FORCE PERSONNEL CENTER  
RANDOLPH AIR FORCE BASE, TEXAS

26 Aug 97

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPD  
550 C Street West Ste 06  
Randolph AFB TX 78150-4708

SUBJECT: Application for Correction of Military Record [REDACTED]  
[REDACTED]

REQUESTED ACTION: Applicant requests that her honorable discharge be changed to a medical retirement.

FACTS: Applicant voluntarily separated from the Air Force on 9 Nov 91 upon completion of three years, six months, and twenty-seven days of active duty upon completion of her active duty service commitment under AFR 36-12.

DISCUSSION: The purpose of the military disability system is to maintain a fit and vital force by separating members who are unable to **perform** the duties of their grade, office, rank or rating. Those members who are separated or retired by reason of physical disability may be eligible, if otherwise qualified, for certain disability compensations. Eligibility for disability processing is established by a Medical Evaluation Board (MEB) when that board finds that the member may not be qualified for continued military service. The decision to conduct an MEB is made by the medical treatment facility providing health care to the member.

A review of the applicant's records reflects that member underwent surgical procedures for removal of the thyroid and received radioactive iodine treatment during period of Aug 91. She subsequently met a MEB in Oct 91, was found fit, qualified for continued military service, and was returned to duty by medical personnel within the medical board system. Her case was never entered into the Air Force disability evaluation system. The applicant's medical condition and history is fully explained by the Medical Consultant; we concur with **his** advisory. The medical record clearly shows that while the applicant may have been treated for various medical conditions while on active duty, none were serious enough to render her unfit for further military service under the provisions of disability law and policy. Member was fit for duty upon her Nov 91 separation **from** active duty.

9700051

13 Jun 97  
97-00051

MEMORANDUM FOR AFBCMR

FROM: BCMR Medical Consultant  
1535 Command Drive, EE Wing, 3rd Floor  
Andrews AFB MD 20762-7002

SUBJECT: Application for Correction of Military Records  


Applicant's entire case file has been reviewed and is forwarded with the following findings, conclusions and recommendations.

REQUESTED ACTION: The applicant electively separated under the provisions of AFR 36-12 on 9 Nov 91 after serving 3 years, 6 months, 27 days on active duty. She now applies requesting the records be changed to show a medical discharge based on disability benefits awarded by the DVA.

FACTS: Evidence of record and medical examinations prior to separation indicate the applicant was fit and medically qualified for continued military service or appropriate separation and did not have any physical or mental condition which would have warranted consideration under the provisions of AFM 35-4. She had been diagnosed with papillary carcinoma of the thyroid in August 1990 and underwent surgical removal of the thyroid and subsequent radioactive iodine treatment for residual disease in August 1991. She subsequently met a Medical Evaluation Board (MEB) and was returned to duty in ~~Oct~~ 91, having been found fit for same. She had applied for separation which was effective on noted date. She was later granted 100% disability by the DVA for the year following the radiation therapy and then reduced to 30% appropriately when no residual disease was found on reexamination. Action and disposition in this case are proper and reflect compliance with Air Force directives which implement the law.

DISCUSSION: The reason why the applicant could be declared fit for duty by the Air Force and later be granted 100% service-connected disability by the Department of Veterans Affairs (DVA) lies in understanding the differences between Title 10, **USC**, and Title 38, **USC**. Title 10, **USC**, Chapter 61 is the federal statute that charges the Service Secretaries with maintaining a fit and vital force. For an individual to be considered unfit for military service, there must be a medical condition so severe that it prevents performance of any work commensurate with rank and experience. Once this determination is made, namely that the individual is unfit, disability rating percentage is based upon the member's condition at the time of permanent disposition, and not upon possible future events. Congress, very wisely, recognized that a person can acquire physical conditions which, although not unfitting at the time of separation, may later progress in severity and alter the individual's lifestyle and future employability. With this in mind, Title 38, **USC** which governs the DVA compensation system was written to allow awarding compensation ratings for conditions that are not unfitting for military service. This is the reason why an individual can be considered fit for military duty up to the day of separation or retirement, and yet soon thereafter receive a compensation rating from the DVA for service-connected, but militarily non-unfitting condition.

9700051

Evidence of record establishes beyond all reasonable doubt that the applicant was medically qualified for continued active duty, that the reason for her separation was proper, and that no error or injustice occurred in this case.

RECOMMENDATION: The Medical Consultant for the BCMR recommends that the application be denied.

A handwritten signature in black ink, appearing to read "Frederick W. Hornick". The signature is fluid and cursive, with a large initial 'F' and 'H'.

FREDERICK W. HORNICK, Col., USAF, MC, FS  
Chief, Medical Consultant, BCMR  
Medical Advisor SAF Personnel Council

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