



**CUI//SP-MIL/SP-PRVCY**

**UNITED STATES AIR FORCE  
BOARD FOR CORRECTION OF MILITARY RECORDS**

---

---

**ADDENDUM TO RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2019-04507-2

*Work-Product*

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

---

---

**APPLICANT'S REQUEST**

The Board reconsider his request to change his Category I condition of bilateral foot plantar fasciitis rated at 10 percent to a 50 percent disability rating.

**RESUME OF THE CASE**

The applicant is a retired Air Force major (O-4).

On 2 Jul 20, the Board considered and denied his request for a change to his medical retirement disability rating finding the applicant had provided insufficient evidence of an error or injustice to justify relief noting his unfitting medical conditions were appropriately processed.

For an accounting of the applicant's original request and the rationale of the earlier decision, see the AFBCMR Letter and Record of Proceedings at Exhibit F.

On 19 Nov 21, the applicant requested reconsideration of his request for a change to his medical retirement disability rating. He again contended his medical condition of bilateral foot Plantar Fasciitis with residual bilateral Achilles tendonitis, status post bilateral Achilles Haglund's deformity surgeries should be changed from a 10 percent to a 50 percent disability rating. A material error was made by the Air Force in relying on an incorrect Department of Veterans Affairs (DVA) impairment rating while being in possession of medical evidence to the contrary.

In support of his reconsideration request, the applicant submitted the following new evidence: (1) a signed affidavit; (2) DVA Compensation and Pension Exam Report; and (3) Veterans Affairs Schedule of Rating Disabilities (VASRD) excerpt.

The applicant's complete submission is at Exhibit G.

**AIR FORCE EVALUATION**

The AFBCMR Medical Advisor recommends granting the application. Based upon a review of the available records, sufficient evidence is found to support the applicant's request with regards to an increase in his Medical Evaluation Board (MEB) rating impairment to 50 percent. An actual

**AFBCMR Docket Number BC-2019-04507-2  
CUI//SP-MIL/SP-PRVCY**

Controlled by: SAF/MRB  
CUI Categories: SP-MIL/SP-PRVCY  
Limited Dissemination Control: N/A  
POC: [SAF.MRBC.Workflow@us.af.mil](mailto:SAF.MRBC.Workflow@us.af.mil)

error did occur in the Disability Evaluation Process (DES) process which extended its presence through to final adjudication based on the narrative summary (NARSUM), which was well distant to his “snapshot” of separation. This case appeared to be a straight-up applied error that originally began with the coding choice used by the DVA that included a knee code for an unfitting bilateral foot condition. It appears that the Air Force simply, and appropriately, accepted the DVA’s proposed rating and made its final adjudication. Although this acceptance of the DVA’s proposed rating was in accordance to DoD and Air Force guidance, the error in the code was blatantly incorrect and the discovery of such an error could have been identified by the Air Force and brought to the attention of the DVA for early correction. However, that did not occur. The Formal Physical Evaluation Board’s (FPEB) final decision which included the applicant’s bilateral knee conditions also included the correction of the DVA’s impairment code for the bilateral foot conditions with a resultant change (increase) in the rating percentage. The improper portion of the knee code was changed from the bilateral foot conditions and was properly affixed to the knee conditions. All of these actions occurred well after the NARSUM was completed and were much closer to, or very shortly after, the applicant’s date of separation.

Within the military’s DES as contained in Title 10, U.S.C., there exists certain criteria regarding compensation for a medically related injury or disease. Under such law, the DoD can only offer compensation for those service incurred diseases or injuries which specifically rendered a member *unfit* for continued active service and were the cause for career termination; and then only for the degree of impairment present at the “*snapshot*” time of separation and not based on future progression of injury or illness. It is the “snapshot” time of separation that this medical advisor believes is in play in this case. It has already been established that an error in impairment coding occurred and such an error was inherently germane to a higher rating percentage. However, the snapshot time of separation was significantly distant from the original NARSUM (15 months) and the original sole 10 percent rating did not include service treatment records and clinical encounters describing his conditions during the period of Oct 17 through his separation in Jun 18; whereas, the FPEB had such records and thus a nearer to separation idea of the applicant’s overall conditions. This medical advisor opines that any and all medical evidence during the 15 month period between the NARSUM and separation holds significantly more weight in the assessment of a career ending condition than at a single period of time 15 months prior.

The complete advisory opinion is at Exhibit H.

#### **APPLICANT’S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 21 Jun 22 for comment (Exhibit I), and the applicant replied on 24 Jun 22. In his response, the applicant agrees with the advisory opinion and urges the Board to grant his request for a medical retirement increasing his impairment rating to 50 percent.

The applicant’s complete response is at Exhibit J.

## **FINDINGS AND CONCLUSION**

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. The Board concurs with the rationale and recommendation of the AFBCMR Medical Advisor and finds a preponderance of the evidence substantiates the applicant's contentions in part. Specifically, the applicant has provided DVA documentation which did conclude an actual error occurred in the Disability Evaluation System process which is sufficient to justify granting the applicant's request to find his Category I unfitting condition of bilateral foot plantar fasciitis to be rated at 50 percent debilitating. Therefore, the Board recommends correcting the applicant's records as indicated below.

## **RECOMMENDATION**

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show the following:

- a. On 26 January 2018, he was found unfit to perform the duties of his office, rank, grade, or rating by reason of physical disability, incurred while he was entitled to receive basic pay; the diagnosis in his case was bilateral foot plantar fasciitis with residual bilateral Achilles tendonitis, status post bilateral Achilles Haglund's Deformity surgeries, that his condition was under Veterans Affairs Schedule for Rating Disabilities (VASRD) code 5024-5276; with a disability rating of 50 percent; with a combined disability rating of 60 percent, which comprised an initial disability rating of 10 percent each due to his left and right knee Patellofemoral Syndrome; the degree of impairment was permanent; the disability was not due to intentional misconduct or willful neglect; the disability was not incurred during a period of unauthorized absence; and the disability was not as a direct result of armed conflict or caused by an instrumentality of war and was not combat-related.
- b. On 27 June 2018, he was discharged from active duty and on 28 June 2018, he was permanently retired with a combined compensable percentage for physical disability of 60 percent.
- c. His election of the Survivor Benefit Plan option will be corrected in accordance with his expressed preferences and/or as otherwise provided for by law or the Code of Federal Regulations.

## **CERTIFICATION**

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2019-04507-2 in Executive Session on 24 Aug 22:

**CUI//SP-MIL/SP-PRVCY**

*Work-Product*, Panel Chair  
*Work-Product*, Panel Member  
*Work-Product*, Panel Member

A majority of the panel voted to correct the record. *Work-Product* voted against correcting the record and did provide a minority opinion (Exhibit K). The panel considered the following:

- Exhibit F: Record of Proceedings, w/ Exhibits A-E, dated 2 Jul 20.
- Exhibit G: Application, DD Form 149, w/atchs, dated 19 Nov 21.
- Exhibit H: Advisory Opinion, AFBCMR Medical Advisor, dated 17 Jun 22.
- Exhibit I: Notification of Advisory, SAF/MRBC to Applicant, dated 21 Jun 22.
- Exhibit J: Applicant's Response, dated 24 Jun 22.
- Exhibit K: Minority Opinion, dated 14 Sep 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

5/17/2023

*Work-Product*

Board Operations Manager, AFBCMR  
Signed by: USAF