



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

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

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2022-00669

*Work-Product*

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

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**APPLICANT'S REQUEST**

His AF Form 356, *Findings and Recommended Disposition of USAF Physical Evaluation Board*, be corrected to reflect disability compensation.

**APPLICANT'S CONTENTIONS**

His knee injury that occurred in the line of duty was not considered on his Physical Evaluation Board (PEB) or listed on his AF Form 356. In addition, the narrative summaries submitted to the Informal Physical Evaluation Board (IPEB) were inaccurate, misleading and information was omitted. Therefore, his cases was not processed as a line of duty (LOD) by the Disability Evaluation System (DES) and a Medical Evaluation Board (MEB) was not processed. He was retired without the right to appeal the decision. He was denied disability compensation by the Department of Defense (DoD) and the Department of Veterans Affairs (DVA) as a result of his unfitting conditions not being listed on his AF Form 356.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a retired Air National Guard (ANG) senior master sergeant (E-8).

On 4 Feb 20, AF Form 469, *Duty Limiting Condition Report*, indicates the applicant's medical condition of bilateral hip arthroplasty limits his mobility, duty, and fitness which requires a MEB or PEB processing.

On 27 Feb 20, the applicant elected to enter into the DES and acknowledged his case is non-duty related and that it would be evaluated for fitness determination only.

On 6 Apr 20, AF Form 356, indicates the applicant's medical condition of bilateral hip arthroplasty prevents him from reasonably performing the duties of his office, grade, rank or rating; requires frequent medical follow-ups; and limits him from performing common military tasks, duties, deployments, and meeting physical fitness requirements. Thus, the IPEB found the condition incompatible with the rigors of military service and unfitting.

On 30 Apr 20, NGB Form 22, *Report of Separation and Record of Service*, reflects the applicant was honorably discharged in the grade of senior master sergeant after serving 37 years, 7 months

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and 23 days of total service. He was discharged with a narrative reason for separation of “Transfer to the USAF Reserve Retired List.”

On 30 Apr 20, according to Special Order Work-Product, dated 14 May 20, the applicant was honorably discharged from the ANG and transferred to the USAF Reserve effective 1 May 20. The applicant applied for transfer to USAF Reserve Retired List. He was furnished with NGB Form 438, *Certificate of Honorable Discharge from the Armed Forces of the United States of America (ANG)*, under the provisions of AFI 36-3209, *Transfer to the USAF Reserve Retired List*, paragraph 3.12.6.

For more information, see the excerpt of the applicant’s record at Exhibit B and the advisory at Exhibit C.

**AIR FORCE EVALUATION**

NGB/SGPS recommends denying the application finding no error to link the applicant’s bilateral hip arthroplasty with any period of duty related military service, to include the period of service during which he was diagnosed with right knee prepatellar bursitis. His osteoarthritis was the contributing factor to his bilateral hip pain that eventually resulted in bilateral hip replacement. The knee injury the applicant incurred on 5 Apr 14 was not the cause of his bilateral hip arthroplasty. His bilateral hip pain was not diagnosed while on active duty orders and was not worsened over and above the natural progression due to trauma or the nature of military service.

Regarding the applicant’s reports of unfitting conditions not listed on AF Form 356, there is no evidence in the related documentation supplied of additional unfitting conditions. The chronic knee pain, painful scaring, depression, obstructive sleep apnea, and Stage 3 kidney disease did not render the member unfit for continued active service.

The DES can by law, under Title 10, United States Code (U.S.C.), only offer compensation for those service-incurred diseases or injuries which specifically rendered a member unfit for continued service and were the cause for career termination; and then only for the degree of impairment present at the time of separation and not based on future progression of injury or illness. The DVA on the other hand, operates under a different set of laws (Title 38, U.S.C.) with a different purpose and is authorized to offer compensation for any medical condition determined service incurred, without regard to and independent of its demonstrated or proven impact upon a service member’s retainability, fitness to serve, or the length of time since date of discharge. The DVA can also conduct periodic reevaluations for the purpose of adjusting the disability rating awards (increase or decrease) over the lifetime of the Veteran.

The complete advisory opinion is at Exhibit C.

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

The Board sent a copy of the advisory opinion to the applicant on 28 Sep 22 for comment (Exhibit D), but has received no response.

**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 not the victim of an error or injustice. The Board concurs with the rationale and recommendation of NGB/SGPS and finds a preponderance of the evidence does not substantiate the applicant’s contentions. Therefore, the Board recommends against correcting the applicant’s record.

**RECOMMENDATION**

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

**CERTIFICATION**

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2022-00669 in Executive Session on 21 Dec 22:

<i>Work-Product</i>	Panel Chair
	Panel Member
<i>Work-Product</i>	Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 2 Mar 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, NGB/SGPS, dated 19 July 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 28 Sep 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

9/23/2023

*Work-Product*

Board Operations Manager, AFBCMR  
Signed by: USAF