



**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-2022-00789

*Work-Product*

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

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**APPLICANT'S REQUEST**

Her DD Form 214, *Certificate of Release or Discharge from Active Duty*, be changed to reflect a medical retirement.

**APPLICANT'S CONTENTIONS**

Her initial Department of Veterans Affairs (DVA) assessment was complete while she was still receiving treatment on her disqualifying factor. Since discharge, the DVA increased her disability rating from 10 percent to 40 percent disability compensation, which exceeds the required 30 percent for a medical retirement.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a former Air Force staff sergeant (E-5).

On 17 Aug 19, the DVA proposed a 10 percent disability rating for a service-connected medical condition of left knee strain. The DVA also provided disability ratings for several other service-connected disabilities with a combined rating of 70 percent.

On 21 Aug 19, AF Form 356, *Informal Findings and Recommended Disposition of USAF Physical Evaluation Board*, indicates the applicant was found unfit due to her medical condition of chronic left knee pain with a combined disability rating of 10 percent.

On 3 Sep 19, AF Form 1180, *Action on Physical Evaluation Board Findings and Recommended Disposition*, indicates the applicant did not agree with the findings and recommended disposition of the board and requested a formal hearing.

On 18 Sep 19, AF Form 356, *Formal Findings and Recommended Disposition of USAF Physical Evaluation Board*, indicates the applicant was found unfit due to her medical condition of chronic left knee pain. Accordingly, the board recommended the applicant be discharged with severance pay with a disability rating of 10 percent.

On 27 Sep 19, AF Form 1180, indicates the applicant did not agree with the findings and recommended disposition of the Formal Physical Evaluation Board (PEB) and requested her case be referred to Secretary of the Air Force Personnel Council (SAFPC) for review and final decision.

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Controlled by: SAF/MRB  
CUI Categories: SP-MIL/SP-PRVCY  
Limited Dissemination Control: N/A  
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On 16 Oct 19, SAFPC concurred with the Formal PEB findings. The applicant failed to submit new compelling medical evidence to support her contention that her back and neck were also unfitting.

On 1 Nov 19, the applicant requested a one-time rating reconsideration of her chronic left knee pain condition.

On 12 Nov 19, the DVA found no change was warranted in the proposed evaluation of left knee pain, currently proposed as 10 percent disabling.

On 30 Dec 19, DD Form 214, reflects the applicant was honorably discharged in the grade of staff sergeant (E-5) after serving 5 years 1 month and 21 days of active duty. She was discharged, with a narrative reason for separation "Disability, Severance Pay, Non-Combat, Related IDES."

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

**AIR FORCE EVALUATION**

AFPC/DPFDD recommends denying the application. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice during the Disability Evaluation System (DES) process. An upgrade of a disability rating by the DVA after separation does not warrant change to the original DES rating after the fact.

DVA records indicate that on 14 Apr 21, the DVA rendered a rating decision changing the rating for the applicant's left knee strain condition from 10 percent to 40 percent effective 17 Nov 20. It is noted that if the DVA would have found an error in their original rating decision they would have backdated the effective date of this award to the day following her separation from the Air Force. However, in the rating decision they stated the 17 Nov 20 date was established because they considered it a new claim for this condition and that was the date the new claim was received.

The Air Force and the DVA disability systems operate under separate laws. Under the Air Force system (Title 10, United States Code [U.S.C.]), the Physical Evaluation Board (PEB) must determine whether an airman's medical condition renders them unfit for continued military service relating to their office, grade, rank or rating. To be unfitting, the condition must be such that it alone precludes the member from fulfilling their military duties. The PEB then applies the rating best associated with the level of disability at the time of disability processing. That rating determines the final disposition (discharge with severance pay, placement on the temporary disability retired list, or permanent retirement) and is not subject to change after the service member has separated. Under the DVA system (Title 38, U.S.C), the member may be evaluated over the years and their rating may be increased or decreased based on changes in the member's medical condition at the current time. However, a higher rating by the DVA based on new and/or current exams conducted after discharge from service does not warrant a change in the total compensable rating awarded at the time of the member's separation.

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 5 Jul 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 AFPC/DPFDD and finds a preponderance of the evidence does not substantiate the applicant’s contentions. Therefore, the Board recommends against correcting the applicant’s records.

**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-2022-00789 in Executive Session on 22 Feb 23:

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

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 26 Apr 21.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPFDD, w/atchs, dated 1 Jul 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 5 Jul 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.

12/8/2023

*Work-Product*

Board Operations Manager, AFBCMR  
Signed by: *Work-Product*