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

**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2022-02337

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**COUNSEL:** NONE

**HEARING REQUESTED:** NO

**APPLICANT’S REQUEST**

Her honorable discharge be upgraded to a medical retirement.

**APPLICANT’S CONTENTIONS**

At the time of her separation from the Air National Guard (ANG), she was already awarded a 30 percent disability by the Department of Veteran’s Affairs (DVA). She was not told anything about a medical retirement and was not afforded that possibility. Based on her documentation and disabilities at the time of separation, she is requesting a medical retirement.

The applicant’s complete submission is at Exhibit A.

**STATEMENT OF FACTS**

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

On 18 Mar 21, according to the DVA Rating Decision Letter, dated 18 May 21, provided by the applicant, she was awarded a combined rating evaluation of 30 percent.

On 25 Jun 21, according to NGB Form 22, *Departments of the army and the Air Force National Guard Bureau Report of Separation and Record of Service*, the applicant was honorably discharged under the authority of AFI 36-3209, *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members*, with a separation reason of “Expiration of Enlistment.”

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

**AIR FORCE EVALUATION**

NGB/SGP recommends denying the application. Based on the documentation provided by the applicant and analysis of the facts, there is no error or injustice. The applicant was seen and treated for her right ankle/foot condition and left knee joint pain between Feb 15 and Jan 20. No additional follow-up/post-operative medical documentation was submitted regarding the status of the

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applicant's pes planovalgus condition. There was no medical documentation indicating the applicant had outstanding medical issues restricting her from any type of duty, mobility or fitness restrictions nor limiting her to perform her duties of her office, grade and rank/rating prior to separating from the ANG on 25 Jun 21.

The Disability Evaluation System (DES) can by law, under Title 10, 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 re-evaluations for the purpose of adjusting the disability rating awards (increase or decrease) over the lifetime of the veteran. The applicant has a 30 percent combine service-connected rating effective date 18 Mar 21.

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 26 June 2023 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/SGP and finds a preponderance of the evidence does not substantiate the applicant's contentions. Being processed through the DES is not a choice given to service members and the mere existence of a medical diagnosis does not automatically determine unfitness and eligibility for a medical separation or retirement. The Board finds the preponderance of evidence does not support the applicant's military duties were degraded due to her medical conditions. A Service member shall be considered unfit when the evidence establishes the member, due to physical disability, is unable to reasonably perform the duties of his or her office, grade, rank, or rating. Furthermore, a rating by the DVA, does not equate to a military medical separation or retirement. The military's DES established to maintain a fit and vital fighting force, can by law, under Title 10, U.S.C., 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 or near the time of separation. Whereas the DVA is empowered to offer compensation for any medical condition with an established nexus with military service,

without regard to its impact upon a member’s fitness to serve, the narrative reason for release from service, or the length of time transpired since the date of discharge. 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-2022-02337 in Executive Session on 26 Jul 23 and 21 Feb 24:

- 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 31 Aug 22 and 14 Oct 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, NGB/SGP, dated 29 Nov 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 26 Jun 23.

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.

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Board Operations Manager, AFBCMR  
Signed by: USAF