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

**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2022-03138

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**COUNSEL:** NONE

**HEARING REQUESTED:** YES

**APPLICANT'S REQUEST**

Her retirement order be changed to show a "Medical Retirement."

**APPLICANT'S CONTENTIONS**

She was medically retired on 31 Dec 12 due to being medically disqualified following back surgery. She should have met a Medical Evaluation Board (MEB) for disability purposes. She was not given that opportunity and was not aware it was an option at the time. She wants to receive her retirement pay and present her case to the Department of Veteran's Affairs (DVA) to receive benefits.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a retired Air Force Reserve master sergeant (E-7) awaiting retired pay at age 60.

On 31 Dec 12, according to Reserve Order Work-Product dated 26 Nov 12, the applicant was assigned to the retired reserve due to "Medical Disqualification."

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

**AIR FORCE EVALUATION**

The AFRBA Staff Physician Adjudicator finds insufficient evidence to support the applicant's request to change any component of her retirement orders. In accordance with (IAW) AFI 48-123, *Medical Examinations and Standards*, her surgical procedure, (arthroplasty), with severe pain is disqualifying for service retention. When she claimed the onset of her back condition as standing up from a sitting position in November 2008 or a result of childbirth in May 2010, she was not in an active military status. Her definitive condition being of a degenerative nature (lumbar disc degeneration) does not occur as an acute event from either changing posture positions or childbirth. Her back condition did not occur in the line of duty and therefore, it was a non-duty related physical condition which was not permanently aggravated by military service. Further, IAW Department of Defense Instruction (DoDI) 1332.38, *Physical Disability Evaluation*, paragraph E2.1.20 defines non-duty related impairments as follows: "Impairments of members of the Reserve components that were neither incurred nor aggravated while the member was performing duty. Members with non-duty related impairments are eligible to be referred to the Physical Evaluation Board (PEB)

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solely for a fitness determination but not a determination of eligibility for disability benefits.” Therefore, her specific statement of “I should have met a medical evaluation board (MEB) for disability purposes” is false. Also, DoDI 1332.38, paragraph E3.P7.5.5.4 states “The medical impairment of a Ready Reserve member is non-duty-related; disqualifies the member for retention in the Reserve components...” Therefore, the applicant had a disqualifying chronic medical condition for service retention that was not incurred in the line of duty. Finally, although the applicant denotes not knowing of the Disability Evaluation System option for fitness only determination (ability to continue her military service), her AF Form 469, *Duty Limiting Condition Report*, dated 27 Oct 11, would contradict such unawareness. The burden of proof is placed on the applicant to submit evidence to support her request. The evidence she did submit were assessed to not support the requested change.

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 29 Jun 23 for comment (Exhibit D) but has received no response.

### **FINDINGS AND CONCLUSION**

1. The application was not timely filed. The Board notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find it in the interest of justice to waive the three-year filing requirement.
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 the AFRBA Staff Physician Adjudicator and finds a preponderance of the evidence does not substantiate the applicant’s contentions. The applicant had a disqualifying chronic medical condition for service retention that was not incurred in the line of duty; therefore, it was a non-duty related physical condition which was not permanently aggravated by military service. Therefore, the Board recommends against correcting the applicant’s records.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board’s understanding of the issues involved.

### **RECOMMENDATION**

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

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## 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-2022-03138 in Executive Session on 3 Oct 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 29 Nov 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFRBA Staff Physician Adjudicator, dated 10 Jun 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 29 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.

9/11/2025

X

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Board Operations Manager, AFBCMR

Signed by: Work-Product

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