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

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2023-01654

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

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**APPLICANT'S REQUEST**

1. Her medical disability retirement be changed to a 20-year regular retirement.
2. Her medical disabilities be assessed as combat-related in order to qualify for compensation under the Combat-Related Special Compensation (CRSC) Act.

**APPLICANT'S CONTENTIONS**

She was misadvised about receiving her 20-year award letter and her retirement pay. Her retirement pay stopped once she became more than 50 percent disabled through the Department of Veterans Affairs (DVA). She was evaluated as unemployable by the DVA. When she was removed from the Temporary Disability Retired List (TDRL) and assigned to the Permanent Disability Retired List (PDRL), she stopped receiving her retired pay. She could have remained at a desk for an additional three and half years while she awaited her evaluation to be placed on the PDRL. This would have given her the additional time needed for a 20-year retirement. She has been working with the base legal office to get this resolved but has not been successful. Additionally, she was advised to apply for CRSC but was denied stating her service-connected injuries were during peacetime and wartime which justifies why her military pay should continue and should not have stopped when she was removed from the TDRL. She was injured while on active duty when she attempted to assist a nurse with a patient and the patient fell on top of her and the nurse. She suffered for years with severe back and hip pain; however, maintained her duties in her Air Force Specialty Code (AFSC). She requested to remain in her AFSC to make it to 20 years while she waited for her medical board to be completed.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a medically retired Air Force technical sergeant (E-6).

On 22 Feb 05, AF IMT 618, *Medical Board Report*, indicates the applicant was referred to the Informal Physical Evaluation Board (IPEB) for pain disorder associated with both psychological

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Controlled by: SAF/MRB
CUI Categories: [REDACTED]
Limited Dissemination Control: N/A
POC: <a href="mailto:SAF.MRBC.Workflow@us.af.mil">SAF.MRBC.Workflow@us.af.mil</a>

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factors and a general medical condition, major depressive disorder (MDD), asthma, and chronic lumbar spine pain.

On 28 Apr 05, 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 pain disorder associated with depression secondary to low back pain status post lumbar fusion, social and industrial adaptability impairment definite with a disability compensation rating of 30 percent with a recommendation of "Temporary Retirement." Her other conditions of gastroesophageal reflux disease, asthma, hypertension, migraine headaches, and nephrolithiasis by imaging were rated as Category II conditions that can be unfitting but were not currently found unfitting.

On 2 May 05, AF Form 1180, *Action on Physical Evaluation Board Findings and Recommended Disposition*, indicates the applicant disagreed with the findings of the board and requested a formal hearing. She stated she agreed with retirement but disagreed with the 30 percent rating and felt it should have been higher.

On 11 May 05, the applicant's request to waive the Formal Physical Evaluation Board (FPEB) hearing was approved.

Dated 16 May 05, Special Order [REDACTED], indicates the applicant was placed on the TDRL in the grade of technical sergeant with a compensable percentage for physical disability of 30 percent, effective 25 Jun 05.

On 24 Jun 05, DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects the applicant was honorably discharged in the grade of technical sergeant (E-6) after serving 15 years, 11 months, and 27 days of active duty. She was discharged, with a narrative reason for separation "Disability, Temporary."

On 10 Apr 07, AF Form 356, for her TDRL Reevaluation, indicates the applicant was found unfit due to her medical condition of pain disorder associated with depression secondary to low back pain status post lumbar fusion, social and industrial adaptability impairment with a disability compensation rating of 30 percent with a recommendation of "Permanent Retirement."

On 21 Apr 07, the applicant concurred with the findings of the board.

Dated 1 May 07, Special Order [REDACTED], indicates the applicant was removed from the TDRL and permanently retired with a compensable percentage for physical disability of 30 percent, effective 21 May 07.

On 29 Jun 22, the applicant's request for CRSC for MDD, headaches, knee joint osteoarthritis, left and right with total knee arthroplasty, degenerative disc disease lumbar spine, radiculopathy of the sciatic nerve, left lower extremity, carpal tunnel syndrome left and right wrist, and right and left hip trochanteric pain syndrome X2 was disapproved. It is noted the documentation provided did not confirm her disabilities were a direct result of Armed Conflict, Hazardous Service, Simulation of War or an Instrument of War. She was advised to resubmit her application if she had additional

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documentation such as in-service medical records from the time of the injury that confirms both the injury and how it occurred (combat-related event).

On 18 Jan 23, the applicant's resubmission request for CRSC was denied finding no additional information or documentation to confirm her MDD was the direct result of a combat-related event.

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

## **APPLICABLE AUTHORITY/GUIDANCE**

Per AFI 36-3202, dated 22 Nov 05, Table 2, Rule 18, do not issue a DD Form 214 when the member is removed from the TDRL. The time spent on the TDRL is not considered active-duty time.

Concurrent Retirement and Disability Pay (CRDP) eligibility is a joint program administered by the Defense Finance and Accounting Service (DFAS) and the Department of Veterans Affairs (DVA). CRDP allows military retirees to receive both military retired pay and DVA compensation. This was prohibited until the CRDP program began on 1 Jan 04. The eligibility criteria are as follows:

You must be eligible for retired pay to qualify for CRDP. If you were placed on a disability retirement but would be eligible for military retired pay in the absence of the disability, you may be entitled to receive CRDP. Under these rules, you may be entitled to CRDP if (1) you are a regular retiree with a DVA disability rating of 50 percent or greater; (2) you are a reserve retiree with 20 qualifying years of service, who has a DVA disability rating of 50 percent or greater and who has reached retirement age; (3) you are retired under Temporary Early Retirement Act (TERA) and have a DVA disability rating of 50 percent or greater; or (4) you are a disability retiree who earned entitlement to retired pay under any provision of law other than solely by disability, and you have a DVA disability rating of 50 percent or greater. You might become eligible for CRDP at the time you would have become eligible for retired pay.

## **AIR FORCE EVALUATION**

AFPC/DPFDC recommends denying the applicant's request for CRSC finding no evidence of an error or injustice. The applicant submitted two claims for CRSC in Jun 22 and Jan 23. Her claims were disapproved as non-combat related. She contends her disability was caused by various tragic life situations (bad marriage; loss of child; loss of mother; struggles of being a single parent). Documentation provided by the applicant does not confirm her disability was a direct result of Armed Conflict, Hazardous Service, Simulation of War or an Instrument of War.

The fact that a member incurred the disability during a period of war; while serving in an area of armed conflict; and/or while participating in combat operations is not sufficient by itself to support a combat-related determination per 10 U.S.C. Section 1413a and DoD Financial Management

[REDACTED]

Regulation, Volume 7B Chapter 6. When making combat-related determinations, with regard to Armed Conflict, Hazardous Service, Simulation of War or an Instrument of War, the board looks for definite, documented, causal relationship between the armed conflict and the resulting disability. The applicant did not provide any new evidence that supports her claim for CRSC. The Department of Veterans Affairs (DVA) awards service-connected disabilities based on their standards. They resolve doubt in the interest of the veteran and grant service connection for injuries or diseases incurred while in service. While service connection for disabilities is required for initial eligibility for CRSC consideration, the CRSC program is designed to provide compensation for combat-related injuries and its standards are much more rigorous when determining if claimed disabilities qualify as combat related.

The complete advisory opinion is at Exhibit C.

AFPC/DPFDC recommends denying the applicant's request for a 20-year regular retirement finding no evidence an error or injustice occurred during the processing of her medical case. On 25 Jun 05, the applicant was found unfit by the IPEB and placed on the TDRL and on 21 May 07, was removed from TDRL and placed on the Permanent Disability Retired List (PDRL). When a member is found unfit for military service, and the disability is not determined to be of a permanent nature and stable, they are placed on the TDRL per 10 U.S.C. Section 1202. According to DoD Financial Management Regulation Volume 7B, Chapter 1, 010201, members who incur a qualifying disability while serving on active duty; while called to active duty for training for 30 days or less; or while performing inactive duty training; may be retired for disability, at which time a service computation is required. When placed on TDRL, her service computation was calculated and active service time for retirement was 15 years, 11 months, 27 days. She spent 1 year, 10 months, and 26 days on TDRL. Had the applicant been eligible to accrue active service time while on TDRL, she still would not have had enough time to be eligible for a 20-year retirement.

The complete advisory opinion is at Exhibit D.

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

The Board sent a copy of the advisory opinion to the applicant on 25 Oct 23 for comment (Exhibit E), and the applicant replied on 27 Nov 23. In her response, the applicant contends she was misadvised about getting out and understood her pay would be comprised of retirement pay and DVA disability pay. She was permanently medically retired on 12 Mar 07 and should receive her retirement pay from this date to the present, which stopped when she was removed from the TDRL. The military decided sitting at a desk for another three plus years to get to 20-years for retirement was not possible because she was not combat-ready for duty. She was advised to apply for CRSC; her disability was not incurred as a direct result of armed conflict or was caused by an instrumentality of war; however, her injury did occur on active duty and over time, became a hindrance to her performance and did incur in the line of duty and during a period of war. Before she was found unfit and placed on the TDRL, she asked to remain on active duty to obtain 20-years of service. She was successfully doing her job sitting at a desk. She was told several times she would receive her retirement pay even though she did not complete her 20 years for a regular

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retirement. Her documents show she would receive her retirement pay alongside her DVA compensation.

The applicant's complete response is at Exhibit F.

## **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/DPFDC and finds a preponderance of the evidence does not substantiate the applicant's contentions. Specifically, the Board finds the applicant's claim she should be awarded CRSC because she incurred a disability during a period of war; while serving in an area of armed conflict; and/or while participating in combat operations is not sufficient by itself to support a combat-related determination per 10 U.S.C. Section 1413a and DoD Financial Management Regulation, Vol 7B Chapter 6. When making combat-related determinations, with regard to Armed Conflict, Hazardous Service, Simulation of War or an Instrument of War, the Board looks for definite, documented, causal relationship between the armed conflict and the resulting disability. The information the applicant provided offers no new evidence that supports her claim for CRSC. Furthermore, the Board finds no error with the applicant's current DD Form 214 as this document correctly annotates her time spent on active duty. The DD Form 214 is prepared and used to record qualifying active-duty service. A new DD Form 214 or correction for service credit is not authorized for members being removed from the TDRL as time spent on the TDRL does not qualify as active-duty service credit. Her disability retirement order which removed her from the TDRL reflects the time period in question. Lastly, the Board finds no error in the processing of her medical disability case. She was correctly found unfit for continued military service and was placed on the TDRL because her condition was not yet stable. When she was placed on TDRL, her service computation was calculated and active service time for retirement was 15 years, 11 months, 27 days; therefore, she is ineligible for a 20-year retirement. 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-2023-01654 in Executive Session on 20 Mar 24:

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[REDACTED], Panel Chair  
[REDACTED], Panel Member  
[REDACTED], Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 23 Apr 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPFDC (CRSC), dated 12 Oct 23.
- Exhibit D: Advisory Opinion, AFPC/DPFDC, dated 16 Oct 23.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 25 Oct 23.
- Exhibit E: Applicant's Response, dated 27 Nov 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.

3/25/2024

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Board Operations Manager, AFBCMR  
Signed by: USAF