



Work-Product

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

**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER: BC-2024-03625**

Work-Product

**COUNSEL: NONE**

**HEARING REQUESTED: YES**

**APPLICANT’S REQUEST**

His discharge with severance pay (DWSP) be changed to a medical retirement.

**APPLICANT’S CONTENTIONS**

The Physical Disability Board Review (PDBR) contacted him back in 2016 and told him he should have been medically retired but they needed the AF Form 356, *Informal Findings and Recommended Disposition of USAF Physical Evaluation Board*, to determine if the board looked at his complete medical history and all his disabilities. The Medical Evaluation Board (MEB) was never conducted, and his commander only considered his anterior cruciate ligament (ACL) reconstruction, which was his third ACL reconstruction. His initial Department of Veterans Affairs (DVA) disability rating was 40 percent, and he has since been upgraded to 100 percent. It took him until early this year to obtain the evidence necessary to file his application for relief.

The applicant’s complete submission is at Exhibit A.

**STATEMENT OF FACTS**

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

On 30 Jun 97, 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 16 years, 1 month, and 3 days of active duty. He was discharged, with a narrative reason for separation of “Hardship.”

Dated 21 Apr 03, AF Form 348, *Line of Duty Determination*, indicates the applicant’s left knee injury (torn ACL) was found in the line of duty (ILOD) by the appointing authority on 27 Jul 03.

On 1 Nov 03, AF Form 618, *Medical Board Report*, indicates the applicant was disqualified from worldwide duty (WWD) due to his left anterior cruciate ligament reconstruction for left knee instability, anterior knee pain, patella and trochlear chondromalacia grades 2 and 3 and grade 1 lateral femoral condyle chondromalacia.

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Controlled by: SAE/MRB  
CUI Categories: Work-Product  
Limited Dissemination Control: N/A  
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On 2 Nov 03, a response from his commander indicates the applicant was classified as non-worldwide qualified placing him in a non-deployable position and because of this, his commander did not recommend he be returned to duty or be allowed to cross train.

On 9 Dec 03, the Office of the Secretary of the Air Force (SAF) determined the applicant was physically unfit for continued service and directed he be discharged under the provisions of 10 U.S.C. Section 1203.

Dated 14 Jan 04, Special Order **Work-Product** indicates the applicant was honorably discharged from the ANG, entitled to severance pay in the grade of staff sergeant (E-5), effective 27 Jan 04.

On 27 Jan 04, NGB Form 22, *National Guard Bureau Report of Separation and Record of Service*, reflects the applicant was honorably discharged from the ANG after serving two years, seven months, and seven days of service for this period. He was discharged, with a narrative reason for separation of "Medical Disqualification, Disability, Severance Pay."

On 18 Apr 06, the DVA proposed a disability rating for the applicant's service-connected medical conditions of left ankle strain at 20 percent, post-operative left knee injury at 10 percent, and hiatal hernia with reflux, status post balloon dilatation at 10 percent, effective 18 Oct 05.

On 19 Apr 06, the SAF determined the applicant satisfactory served in the higher grade of technical sergeant (E-6) within the meaning of 10 U.S.C. Section 1212.

On 23 Feb 17, the DVA increased the disability rating for the applicant's service-connected medical condition of post-operative left knee injury (total left knee replacement) from 10 percent to 30 percent, effective 8 Feb 17.

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

#### **APPLICABLE AUTHORITY/GUIDANCE**

The military's Disability Evaluation System (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 and not based on post-service progression of disease or injury. To the contrary, the DVA, operating under a different set of laws, Title 38, U.S.C., 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.

#### **AIR FORCE EVALUATION**

The AFRBA Medical Advisor recommends denying the applicant's request for a medical retirement finding no medical evidence, an error or injustice occurred with the applicant's rating. There is sufficient medical evidence to show the applicant's medical condition underwent a complete and appropriate MEB process. The ILOD and service aggravation determinations were appropriate; however, there was no medical documentation for a higher disability rating than the one received at discharge that resulted in severance pay.

The applicant was able to perform his duties, despite his ILOD knee injuries, for the majority of his 16 years on active duty. It was during the applicant's ANG time that he suffered service aggravation of the prior knee injuries, resulting in an MEB, disqualification for military service, and subsequent separation with severance pay in 2004. There is sufficient medical evidence to support the applicant's knee injury was considered an ILOD injury and was aggravated by service during his ANG time in service. Several profiles in evidence during his ANG time documented physical limitations that directly impacted his military duties. These limitations subsequently triggered an MEB where a physician determined he was not worldwide qualified (WWQ) or deployable. The applicant contends the MEB process was never conducted; however, while the applicant was in the ANG, the MEB process was initiated in Feb 03, and an MEB narrative summary (NARSUM) was completed in Apr 03. The Medical Board convened in Jun 03 and determined his knee condition did not exist prior to service, had started in Feb 02, was incurred while entitled to basic pay, and had been aggravated by service. The Medical Board recommended the applicant be disqualified for worldwide duty on 17 Jun 03 to which he was separated with severance pay. The applicant contends he should have received a medical retirement. Although not documented in his available records, his disability rating at the time of separation did not meet criteria for a medical separation. The MEB NARSUM physician documented a decrease in strength and endurance and a range of motion of 3-110 degrees (normal 0-140 degrees). However, the knee had no evidence of laxity of the ACL and posterior cruciate ligaments, no effusions, and no medial nor lateral laxity. These findings corresponded to the Veterans Affairs Schedule for Rating Disabilities (VASRD) of 10 percent, which is assigned for chronic pain causing some limitation of motion, and feelings of instability. No higher ratings could be given at the time of discharge, as there was no evidence of moderate subluxation or lateral instability of the knee; no evidence of dislocation of the semilunar cartilage with frequent episodes of locking, pain, nor effusion into the joint; no evidence of flexion limited to 30 degrees; nor extension limited to 15 degrees. Of note, the applicant's subsequent Veterans Affairs rating decisions (VARD) did not rise above a 10 percent rating. Based on the findings of the MEB NARSUM and VARD near the time of his discharge, a medical retirement (30 percent or more) is not supported. The rating he received, which was less than 30 percent, resulted in severance pay, and was appropriate and consistent to the level of impairment and severity of his condition at the time of separation. Therefore, his contention is not supported by his service treatment records.

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

The Board sent a copy of the advisory opinion to the applicant on 4 Sep 25 for comment (Exhibit D) but received no response.

## FINDINGS AND CONCLUSION

1. The application was not timely filed. The Board also 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)*.

2. The applicant exhausted all other available administrative remedies 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 Medical Advisor and finds a preponderance of the evidence does not substantiate the applicant's contentions. While the applicant asserts, he should have been medically retired because the DVA initially rated him at 40 percent disabled, the Board finds his other two service-connected disabilities rated by the DVA, his left ankle strain and hiatal hernia with reflux, were not unfitting at the time of his separation from the ANG. 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. The mere existence of a medical diagnosis does not automatically determine unfitness and eligibility for a medical separation or retirement. The preponderance of medical evidence does not indicate his military duties were degraded due to his left ankle strain and hiatal hernia with reflux. 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. The applicant's left knee injury (ACL tear) was what made him ineligible to perform his military duties and the Board finds this condition was properly assessed at a 10 percent rating which aligns with his DVA rating closest to his time of separation and further finds he was correctly processed through the medical evaluation process as the SAF found him unfit for continued service. No higher rating could be given at the time of discharge, as there was no evidence of moderate subluxation or lateral instability of the knee; no evidence of dislocation of the semilunar cartilage with frequent episodes of locking pain, nor effusion into the joint; no evidence of flexion limited to 30 degrees; nor extension limited to 15 degrees. Furthermore, 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 applicant's left knee injury (ACL tear) was not awarded a higher percentage until 2017, over a decade later. 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 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-2024-03625 in Executive Session on 26 Sep 25 and 5 Oct 25:

- 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 14 Oct 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFBCMR Medical Advisor, dated 4 Sep 25.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 4 Sep 25.

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.

11/12/2025

*Work-Product*

Board Operations Manager, AFBCMR  
Signed by: USAF