RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: air force

CASE NUMBER: PD0900142 COMPONENT: REGULAR

BOARD DATE: 20090709 SEPARATION DATE: 20070709

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SUMMARY OF CASE: This covered individual (CI) was a Senior Airman Radio Communications Systems Journeyman medically separated from the Air Force in 2007 after over six years of service.

He originally injured his left knee in a basketball game in May 2003. He had surgery to repair a lateral meniscus tear and reconstruction of the anterior cruciate ligament (ACL) in June 2003. His rehabilitation went well and although he was not completely symptom free, he was cleared for firefighter training and was told he could start running in November 2003. In the fall of 2005 the CI injured his left knee again playing basketball. He had a second left knee surgery in the spring of 2006 with a medial meniscectomy, lateral meniscectomy, excision of the medial plica, and microfracture of the lateral femoral condyle to repair an osteochondral defect. He complied with rehabilitation but continued to have pain, swelling, and intermittent locking as well as positive physical findings and an abnormal MRI. A note in his service treatment record from December 2006 stated maximum medical improvement had been reached.

Appropriate therapy had failed to alleviate his symptoms and he was referred to the Air Force Physical Evaluation Board (PEB). The Informal PEB determined he was unfit for continued military service. The Formal PEB concurred and he was then separated with a 20% disability for 5299-5257 Chronic left knee pain, status post repair of anterior cruciate ligament (ACL) with tearing of posterior horn of lateral meniscus and tricompartmental degenerative change using the Veterans Affairs Schedule for Ratings Disabilities (VASRD) and applicable Air Force and Department of Defense regulations.

Using an evaluation completed two months after the time of separation from the Air Force, the Veterans Administration (VA) rated this disability as 5014 Left knee post ACL repair at 10% and 5257 Left knee instability at 10% for a combined total of 20%. The VA also rated 5014 Right knee patellofemoral syndrome at 10%, 6260 Tinnitus at 10%, and 7805 Scars left knee post ACL repair and 7813-7806 Pseudofolliculitis barbae both at 0%. Approximately 16 months later, the rating for 7813-7806 was increased to 10% and his combined rating was 40%.

The CI contends that the PEB denied medical retirement because they said there was no instability but the VA rated him for instability less than one year after separation.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

BOARD FINDINGS: IAW DoDI 6040.44, the Board used the VASRD as the most favorable basis for rating. After careful consideration of all available information, the Board concluded by simple majority that the CI’s condition is appropriately rated at a 20% for 5299-5257 Chronic left knee pain, status post repair of ACL with tricompartmental degenerative changes and patellar instability and 10% for 5259 Cartilage, semilunar, removal of, symptomatic for a combined total of 30%.

While the CI’s left knee did not show recurrent subluxation or lateral instability, he did have patellar instability and tricompartmental degenerative changes that resulted in significant pain and swelling. His MEB exam included a positive patellar apprehension test and the degenerative changes were documented on MRI. This was rated analogous to VASRD 5257. He also had slightly decreased range of motion of the left knee but not severe enough to rate this separately under VASRD 5260 or 5261 so this is included in the analogous rating. He also continued to have signs and symptoms of a meniscal tear, even after surgery to remove a portion of it. He continued to have intermittent locking. An MRI done 4 months after his second knee surgery showed a tearing of the posterior horn of the lateral meniscus and his MEB exam included a positive Apley’s test, a positive McMurray’s test and medial tenderness. While it is unclear if this meniscal tear was a new injury or an incomplete repair, he certainly had signs and symptoms of a meniscal tear at the time of separation and this was rated under VASRD 5259. This does not violate VASRD paragraph 4.14 Avoidance or pyramiding because the same manifestations are not used to support more than one diagnosis.

The Board also examined each of the other conditions rated by the VA and did not find any to be unfitting.

The single voter for dissent (recommended no recharacterization) elected not to submit a minority opinion.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

RECOMMENDATION: The Board recommends that the CI’s prior determination be modified as follows and that the discharge with severance pay be recharacterized to reflect disability retirement, effective as of the date of his prior medical separation.

|  |  |  |
| --- | --- | --- |
| Unfitting Condition | VASRD Code | Rating |
| Chronic left knee pain, status post repair of ACL with tricompartmental degenerative changes and patellar instability | 5299-5257 | 20% |
| Cartilage, semilunar, removal of, symptomatic | 5259 | 10% |
| Combined | 30% |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090210, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veteran's Affairs Treatment Record.

