RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXX BRANCH OF SERVICE: Marine corps

CASE NUMBER: PD200900352 BOARD DATE: 20090916

SEPARATION DATE: 20040930

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SUMMARY OF CASE: This covered individual (CI) was a Sergeant Field Radio Operator medically separated from the Marine Corp in 2004 after more than thirteen years of service in the Marine Corps and the Army. The medical basis for the separation was Medial Meniscus Transplant.CI was referred to the Navy Physical Evaluation Board (PEB), found unfit, and separated at 10% disability.

MEDICAL HISTORY: The CI was first seen for right knee pain in May 1990. In May of 2000 he had positive Lachman's sign and anterior drawer sign of the right knee. The CI underwent ACL reconstruction in August 2000, at which time he underwent partial medial meniscectomy. Unfortunately, he continued to re-tear his medial meniscus and underwent complete medial meniscectomy of his right knee in July 2003 und continued to remain symptomatic in his medial compartment, despite an adequate postoperative rehabilitation program. Based on these findings, a decision was made to perform a medial meniscal transplant. After this surgery he did well with unlimited ambulatory tolerance and was able to perform light weight squats and leg presses without complaints at three months postoperative. However, the orthopedic surgeon cautioned that this meniscal transplant is considered a temporary measure to gain time before performing a knee replacement and that the CI should not engage in any strenuous activity such as running, impact loading activities, and carrying heavy loads. He strongly recommended the CI be medically separated. So while the CI was doing well his activities were still severely restricted.

The Informal PEB initially determined he was fit for continued military service. However, upon reconsideration with further evidence from the Senior Medical Board Orthopedic Surgeon the PEB determined the CI was unfit and he was then separated with a 10% disability for 5299-5003 Medial Meniscus Transplant using the Veterans Affairs Schedule for Ratings Disabilities (VASRD) and applicable Navy and Department of Defense regulations.

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CI CONTENTION: CI contends: “I do not feel the board was aware of the severity, and the permanent affect the procedure will have on my life and my employment limitations. The board based on my doctor's comments in his Physical Evaluation Board Addendum slates the boards understanding of Medial Meniscal Transplant is clearly incomplete. My Doctor stated I will need full knee arthroplasty in one to ten years from the date of my surgery. My knee has been bothering me. I take narcotic pain medicine daily and wear knee braces. So it is clear that soon I will need full knee replacement and I won't be able to work. I have other medical problems as well but when my knee goes I don't know what kind of work I will be able to do. I’m only forty and facing full knee replacement. The VA does not seem to understand this procedure as well due the fact the VArates my right knee as an ACL replacement, meniscal repair which I had in 2000. There are limited doctors in the country that deal with this procedure. So I am totally convinced that the board did not consider the employment and lifetime obstacles I’m facing with this condition and the board's findings were not appropriate and were unfair. I request that PDBR read the Physical Evaluation Board Addendum that my Doctor wrote this will help to understand the procedure. I also respectfully and humbly request the PDBR change my rating to at least the minimum required to receive some type of retirement benefits. The severance pay I received when I was separated is taken out of my VA check monthly. I am paying all of it back, so it is like I really got nothing. I served nearly fourteen years and I gave One Hundred and Ten percent in everything I did while I was in the military. This took a very heavy toll on my mind and body. The PDBRwill see in box fourteen where I listed all my VA rated injuries and illnesses. I have this condition that really no one but the doctor that did the procedure realizes the severity and permanent effect it has on my life. This condition deteriorates as time passes it will not get better it will only worse as my doctor stated.”

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RATING COMPARISON:

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| --- |
| **Previous Determinations**  |
| **Service** | **VA** |
| **PEB Condition** | **Code** | **Rating** | **Date** | **Condition** | **Code** | **Rating** | **Exam Date** | **Effective date** |
| Medial Meniscus Transplant (7173)  | 5299-5003 | 10% | 20040721 | Internal Derangement, Right Knee, Status Post Anterior Cruciate Ligament Repair, Meniscal Repair, with Chondromalacia and Degenerative Joint Disease | 5010-52575010-52585210-5260 | 10%0%20%10% | 200101092004092320061016 | 20010412-20010711Active Duty2004100120060405 |
|  |  |  |  | Left Knee Strain associated with Internal Derangement,Right Knee. status post Anterior Cruciate LigamentRepair, Meniscal Repair, with Chondromalacia and Degenerative Joint Disease (Previously Rated Under DC5010-5257) | 5099-5019 | 0% | 20061016 | 20060405 |
|  |  |  |  | Degenerative Disc Disease. Cervical Spine | 52425210 | 0%10% | 20040923 | 2004100120060405 |
|  |  |  |  | Bilateral Recurrent Inguinal Hernias, Status Post Surgical Repair | 7338-7804 | 10% | 20010109 | 20010412 |
|  |  |  |  | Torn Left Pectoralis Major Muscle | 5302-5203 | 10% | 20040923 | 20041001 |
|  |  |  |  | Musculotendinous Strain, Thoracolumbar Spine | 5010-5237 | 10%40% | 2004092320061016 | 2004100120070315 |
|  |  |  |  | Asthma | 6602 | 10%30% | 2004092320061016 | 2004100120070315 |
|  |  |  |  | Post-Traumatic Vascular Headaches | 8045-9304 | 10% | 20040923 | 20041001 |
|  |  |  |  | Hemorrhoids | 7336 | 0% | 20040923 | 20041001 |
|  |  |  |  | Status Post Bilateral Inguinal Hernia Repairs with Residual Scars | 7338-78057338-7804 | 0%10% | 2004092320061016 | 2004100120060405 |
|  |  |  |  | Scars, Right Knee | 7805 | 0% | 20040923 | 20041001 |
|  |  |  |  | Post Traumatic Stress Disorder | 9411 | 30%70% |  | 2004040520081007 |
|  |  |  |  | Exposure To Asbestos | 6899-6833 | NSC | 20040923 |  |
|  |  |  |  | Exposure To Radiation | 6899-6830 | NSC | 20040923 |  |
|  |  |  |  |  |  |  |  |  |
| **TOTAL Combined: 10%** | **TOTAL Combined (incl non-PEB Dxs): 20**% from 2001412**0%** from 20010711 (Active Duty)  **50**% from 20041001 **60%** from 20050915 **90%** from 20060405 **80%** from 20060415**90%** from 20081007 |

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ANALYSIS SUMMARY:

Right Knee Medial Meniscus Transplant

The Navy PEB rated this condition analogous to 5003 Degenerative Arthritis. Using an evaluation completed prior to the time of separation from the Navy, the Veterans Administration (VA) rated this disability as 5010-5258 Internal Derangement, Right Knee, Status Post Anterior Cruciate Ligament Repair, Meniscal Repair, with Chondromalacia and Degenerative Joint Disease at 20%. This rating was based on knee pain, painful motion, and additional flares due to pain, fatigue, weakness, and lack of endurance after repetitive use. He had limited mobility and his knee condition interfered with work and daily activities.

Neither the Navy nor VA examinations showed limit of knee range of motion (ROM) at the compensable level or knee instability. However both documented similar levels of functional impairment as a result of the temporizing medial meniscus transplant and the CI’s other knee impairments. The Navy Orthopedic Surgeon assigned a Cincinnati functional rating of 4 out of 10. While the CI was able to perform most activities of daily living, he could not perform any activity beyond normal walking without pain and swelling and was in fact advised to limit his activities to prolong the usefulness of his transplant.

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BOARD FINDINGS: IAW DoDI 6040.44, provisions of DoD or Military Department regulations or guidelines relied upon by the PEB will not be considered by the PDBR to the extent they were inconsistent with the VASRD in effect at the time of the adjudication. After careful consideration of all available information, the Board unanimously concluded that the CI’s condition is appropriately rated at a 20% for 5299-5258 Internal Derangement, Right Knee, Status Post Anterior Cruciate Ligament Repair and Medial Meniscal Transplant, with Chondromalacia Patella and Degenerative Joint.

This rating is based on the inability to engage in activities beyond basic activities of daily living and walking limited distances without pain and swelling. The CI cannot perform even moderately strenuous activities and cannot engage in sustained activity as repetitive use leads to increased pain, fatigue, weakness, and lack of endurance. These functional limitations interfere with both work and daily living.

The Board also examined left knee, torn pectoralis muscle, status post bilateral inguinal hernia repair, and scars from knee and hernia surgeries and did not find any of these conditions to be unfitting. The other diagnoses rated by the VA were not mentioned in any PEB paperwork and could not be considered by the Board.

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RECOMMENDATION: The Board recommends that the CI’s prior determination be modified as follows, effective as of the date of the CI’s prior medical separation.

|  |  |  |
| --- | --- | --- |
| Unfitting Condition | VASRD Code | Rating |
| Internal Derangement, Right Knee, Status Post Anterior Cruciate Ligament Repair and Medial Meniscal Transplant, with Chondromalacia Patella and Degenerative Joint Disease | 5299-5258 | 20% |
| Combined | 20% |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090511, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

 President

 Physical Disability Board of Review

MEMORANDUM FOR DEPUTY COMMANDANT, MANPOWER & RESERVE

 AFFAIRS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATION

 ICO XXXXXX

Ref: (a) DoDI 6040.44

Encl: (1) PDBR ltr dtd 29 Sep 09

1. I have reviewed the subject case pursuant to reference (a) and accept, in part, the recommendation of the Physical Disability Board of Review (enclosure (1)).

2. Mr. XXXXX’s official records are to be corrected to reflect the following disposition:

 a. Separation from the naval service due to physical disability rated at 20% (vice 10%) effective 30 Sep 2005.

3. Please ensure all necessary actions are taken to implement this decision and Mr. XXXX is notified once those actions are completed.

 Assistant Secretary of the Navy

 (Manpower & Reserve Affairs)