RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXX BRANCH OF SERVICE: USMC

CASE NUMBER: PD0900498 BOARD DATE: 20100217

SEPARATION DATE: 20050105

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SUMMARY OF CASE: This covered individual (CI) was a Sergeant Flight Equipment Technician medically separated from the Marine Corps in 2005 after 6 years of service. The medical basis for the separation was Chronic Left Shoulder Pain. The CI was referred to the Physical Evaluation Board (PEB), found unfit for the condition, and separated at 10% disability using the Veterans Affairs Schedule for Ratings Disabilities (VASRD) and applicable Naval and Department of Defense regulations.

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CI CONTENTION: The CI states: “The condition I suffered and still suffer is painful, on-going, and it has limited my way of life. The PEB made determinations that I feel did not suit a 10% rating. I have had three shoulder [surgeries] on my dominant primary left arm while on active duty, thus rendering me physically inadequate for work, recreation, and the everyday routine of life. As a civilian I am in need of a fourth shoulder surgery and hope to be able to get it soon.”

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RATING COMPARISON:

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Service PEB** | | | | **VA (<1 Mo. after Separation)** | | | | |
| **Unfitting Conditions** | **Code** | **Rating** | **Date** | **Condition** | **Code** | **Rating** | **Exam** | **Effective** |
| Chronic Left Shoulder Pain | 5099-5003 | 10% | 20041027 | Left Shoulder Traumatic Arthritis | 5201-5010 | 10%  20% | 20050119  20090706 | 20050116  20090408 |
| Status Post Revision SLAP Repair and Biceps Tenodesis | **Category II:** Conditions that contribute to the unfitting condition(s): | |  |  |  |  |  |  |
|  | In MEB H&P, not unfitting | | | Scars, Left Shoulder | 7804 | 10% | 20050119 | 20050116 |
|  | Not in DES | | | Left Ankle Instability | 5262 | 10% | 20050119 | 20050116 |
|  | Not in DES | | | Scar Right Eyelid | 7800 | 0% | 20050119 | 20050116 |
|  | Not in DES | | | Tinnitus | 6260 | 10% | 20050119 | 20050119 |
|  |  | | | 6 other conditions | NSC |  |  |  |
| **TOTAL Combined: 10%** | | | | **TOTAL Combined (*Includes Non-PEB Conditions*):**  **30% from 20050116**  **40% from 20090408** | | | | |

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ANALYSIS SUMMARY:

Timeline:

* Initial injury 2001 doing martial arts
* Surgery 1: 20030623 Superior Labrum Anterior to Posterior (SLAP) repair
* 200401 MR arthrogram recurrent SLAP tear
* Surgery 2: 20040209 revision SLAP repair
* Within 30 days of surgery 2, slipped going down stairs and had traction injury to left shoulder
* Surgery 3: 20040524 recurrent SLAP tear with partial tear of biceps tendon. Had subacromial decompression, biceps tenodesis
* Medical Evaluation Board (MEB) narrative summary (NARSUM) done 20041005, 4.5 months after surgery
* Veterans Administration Compensation and Pension (VA C&P) done 20050119, 8 months after surgery, 2 weeks after separation

Condition 1: Left Shoulder Traumatic Arthritis

Second 8 month LIMDU Board 20040209:

PRESENTING DIAGNOSIS, 1) INCOMPLETE RECOVERY STATUS POST LEFT SHOULDER ARTHROSCOPY AND LABRAL REPAIR, DNEPTE, V45. 89

2) POSSIBLE RECURRENT SLAP TEAR, DNEPTE, 840.7

This 26-year old Corporal, United States Marine Corps, with six years of active duty service was evaluated in the Orthopedic Department of Naval Hospital, Beaufort, South Carolina on 6 Feb 2004 with diagnosis of incomplete recovery status post left shoulder arthroscopy and labral repair and possible recurrent SLAP tear left shoulder.

The patient originally sustained an injury to his left shoulder while doing martial arts training in 2001. He failed nonoperative management and then on 23 Jun 2003 he underwent left shoulder arthroscopy. At that time he was noted to have a large type III SLAP tear with a loose flap of labrum impinging in the joint. He had a solid repair done with Bioknotless suture anchors. The patient had the usual rehab regimen instituted postoperatively and he failed to make significant improvement. He continued to complain of pain and crepitus in the left shoulder. Repeat MR arthrogram was performed in Jan 2004, which suggested a recurrent SLAP tear. The patient opted for second look arthroscopy and possible recurrent SLAP repair, despite being retained on active duty past his end of active service (EAS).

X-rays were unremarkable. MRI findings are as above.

Maximum benefits of outpatient therapy have not been obtained.

FINAL DIAGNOSIS: 1) INCOMPLETE RECOVERY STATUS POST LEFT SHOULDER ARTHROSCOPY AND SLAP REPAIR, DNEPTE, V45.89

2) POSSIBLE RECURRENT SLAP TEAR LEFT SHOULDER, DNEPTE, 840.7

It is the opinion of the Medical Board that the above diagnosis is appropriate. The patient is not fit to return to full duty status. Therefore, it is recommended that he be returned to eight months of Limited Duty. Limitations of duty are to preclude any physical fitness testing, use of the involved extremity, field exercises or deployment. Assignment to duty with the above limitations will not aggravate the patient's condition. He will be reevaluated at the end of eight months. He should be assigned in the vicinity of a Naval Hospital where he can obtain appropriate follow up and/or Physical Therapy. The patient has been informed of the contents of the Boards report and does/does not desire to submit a statement in rebuttal. There is no disciplinary action pending.

NARSUM 20041005:

PRESENTING DIAGNOSIS: CHRONIC LEFT SHOULDER PAIN STATUS POST REVISION SLAP REPAIR AND BICEPS TENODESIS, (DNEPTE)

This is a 27-year old SGT, USMC with five years and ten months of active duty service who was evaluated in the Orthopedic Department of Naval Hospital Beaufort, South Carolina on 5 Oct 2004 for the above diagnosis. Attention is invited to the previous report from the Medical Board, specifically the patient's second eight month Limited Duty Board dated 9 Feb 2004 with the diagnosis of incomplete recovery status post left shoulder arthroscopy and SLAP repair and possible recurrent SLAP tear, recommending additional limited duty and possible additional surgical intervention.

INTERVAL HISTORY: Reveals that the patient underwent a second arthroscopy with a revision SLAP repair on 6 Feb 2004. Less than 30 days after surgery, the patient slipped going down the stairs at home and suffered a traction injury to the operative shoulder. When he failed to improve thereafter, he underwent a third arthroscopy on 24 May 2004 and was noted to have a recurrent SLAP tear and a partial tear of the biceps tendon. He underwent left shoulder arthroscopy, subacromial decompression and biceps tenodesis. Postoperatively, the patient made a slow, gradual recovery and participated in physical therapy. He required extensive narcotic medication, which was discontinued on 1 Sep 2004. He had made progress on the Gravitron machine in terms of his endurance for being able to do pull-ups, however on 1 Oct 2004, he was reaching the end of his second eight months of limited duty, attempted to do ten repetitions on the Gravitron at 70 pounds despite my counseling and was unable to continue, developed shoulder pain and had to stop completely.

PHYSICAL EXAMINATION: This is a well-developed, well-nourished male. Examination of the left shoulder reveals internal rotation to T-9. Internal rotation in the right shoulder to T-7. He has full overhead range of motion with mild discomfort in the anterior superior left shoulder. There was a mildly positive Neer's test (*subacromial impingement*), negative Hawkin's *(supraspinatus tendon impingement)*, negative speed's *(biceps tendon instability or tendonitis)* and negative O'Brien's *(SLAP tear)*. He has full external rotation of both shoulders and 5/5 rotator cuff strength bilaterally.

Current limitations of duty are that the patient is unable to perform his duties as a parachute rigger because he has pain lifting chutes and seat pans up onto shelves, and cannot perform the pull-up portion of the physical fitness test.

VA:

Using an evaluation completed less than one month after the time of separation from the Marine Corps, the Veterans Administration (VA) rated this disability as Left Shoulder Traumatic Arthritis at 10%.

Rating Decision 20050602:

Service connection for Left Shoulder Traumatic Arthritis has been established as directly related to military service. MRI report in Nov 2002 Showed early degenerative changes of the AC joint. You also underwent surgery in 2004 for a left biceps tendon tear. Current VA examination shows 135 degrees of abduction and 165 degrees of flexion. A 10 percent evaluation is assigned for painful or limited motion of a major joint. A higher evaluation of 20 percent is not warranted unless arm motion is limited to shoulder level (90 degrees). The effective date is 16 Jan 2005 because this is the day following your discharge from service and your claim was received within one year from discharge from active duty.

C&P Exam 20050119:

PHYSICAL EXAMINATION: The visible contours of the shoulder are normal and equal to the opposite side. There are two arthroscopy portals anteriorly and two posteriorly, all well healed but slightly prominent and slightly pinker than the surrounding skin. They are also tender with firm palpation, especially the anterior two. His range of motion was demonstrated as 135 degrees of abduction, 165 of anterior flexion and 90 degrees each of external and internal rotation, with pain on all movement above horizontal.

(Separation Date 20050105)

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| --- | --- | --- | --- | --- | --- | --- |
| Movement  **Left Shoulder** | ROM Mil  20041005 | MEB H&P 20041014 | ROM VA  20050119 | ROM VA 20090706 | PROM PT  20040713 | AROM PT  20040607 |
| Flex | Full overhead range of motion with mild discomfort  (does not specify where pain occurs) |  | 165 | 80 | WNL |  |
| Abduction |  | Severe pain past 90 | 135 | 120 | 140 | 110 |
| Internal rotation | T-9 |  | 90 |  | 55 |  |
| External rotation | full |  | 90 |  | WNL | 20 |
| Notes: | Mildly positive Neer's test, negative Hawkin's, negative speed's and negative O'Brien's | Severe restriction in extension; 3+/5 strength in abduction |  | Apparent suboptimal effort |  |  |
|  | 10% |  | 10% | 20% |  |  |

Other Conditions.

Left shoulder scar mentioned in Medical Evaluation Board History and Physical (MEB H&P), no evidence it was unfitting.

The Left Ankle Instability, Scar Right Eyelid, Tinnitus were not mentioned in the Disability Evaluation System (DES) package and are therefore outside the scope of the Board.

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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 Board 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 10% for Chronic Left Shoulder Pain and no recharacterization of the CI’s disability and separation determination is warranted.

While the examination described in the Narrative Summary of 20041005 did not specify the degree of motion at which pain occurred it appears to be consistent with the VA examination of 20050119. The VA examination documented motion limited to 165 degrees of flexion and 135 degrees of abduction due to pain. This does not meet the limitation required for the minimal compensable rating under VASRD 5201 Arm, Limitation of motion of, as it requires motion no greater than shoulder level (90 degrees). Painful motion of the shoulder that does not meet these criteria is considered productive of disability and is appropriately rated at 10% IAW VASRD §4.59. The subsequent VA evaluation in 2009 documented a more severely limited range of motion examination and an appropriate rating increase was applied. This appears to be a worsening of the condition over time. However, at the time of separation from service in 2005 the condition warrants a 10% rating as was applied by both the Navy and the VA.

The Board unanimously concluded there was insufficient evidence to consider the condition of left Shoulder Scars as unfitting.

The other diagnoses rated by the VA (Left Ankle Instability, Scar Right Eyelid, and Tinnitus) were not mentioned in the DES package and are therefore outside the scope of the Board. The CI retains the right to request his service Board of Correction for Naval Records (BCNR) to consider adding these conditions as unfitting.

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RECOMMENDATION: The Board therefore recommends that there be no recharacterization of the CI’s disability and separation determination.

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| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Chronic Left Shoulder Pain | 5099-5003 | 10% |
| **COMBINED** | **10%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090817, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

Deputy Director

Physical Disability Board of Review

MEMORANDUM FOR DIRECTOR, SECRETARY OF THE NAVY COUNCIL

OF REVIEW BOARDS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATION

ICO XXXXX

Ref: (a) DoDI 6040.44

(b) PDBR ltr dtd 1 Mar 10

I have reviewed subject case pursuant to reference (a) and approve the recommendation of the Physical Disability Board of Review (reference (b)) that XXXX’s records not be corrected to reflect a change in either his characterization of separation or in the disability rating previously assigned by the Department of the Navy’s Physical Evaluation Board.

Principal Deputy

Assistant Secretary of the Navy

(Manpower & Reserve Affairs)