RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXX BRANCH OF SERVICE: USMC

CASE NUMBER: PD0900510 BOARD DATE: 20100630

SEPARATION DATE: 20050415

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SUMMARY OF CASE: This covered individual (CI) was CPL/E-4, 0331/Rifleman, medically separated from the Marine Corps in 2005 after 4 years of service. The medical basis for the separation was Left Shoulder Pain Likely Represents Mild Impingement. The Left Shoulder Pain was determined to be medically unacceptable. The Left Patellofemoral Pain Syndrome was classified as a Category III condition which was determined to be medically acceptable. The CI was referred to the Physical Evaluation Board (PEB), determined unfit for the Left Shoulder Pain condition, and separated at 10% disability using the Veterans Affairs Schedule for Ratings Disabilities (VASRD) and applicable Navy and Department of Defense regulations.

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CI CONTENTION: The CI states: “I was rated at 10% for a shoulder injury which to this day I still have problems lifting, moving, etc. I have to get cortisone shots to temporarily relieve the pain”.

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RATING COMPARISON:

|  |  |
| --- | --- |
| **Service PEB 20050210** | **VA (8 Months after Separation)** |
| **Condition** | **Code** | **Rating** | **Date** | **Condition** | **Code** | **Rating** | **Exam** | **Effective** |
| Left Shoulder Pain Likely Represents Mild Impingement | 5099-5003 | 10% | 20050210 | Left Shoulder Injury(Original VARD--no exam)Left Shoulder Sprain(VARD 20060228) | NSCthen5299-5203 | 10% | 20051215 | 2005041620050416 |
| Left Patellofemoral Pain Syndrome  | CAT III |  |  | Left Knee Patellofemoral Pain Syndrome | 5024 | 10% | 20051215 | 20050416 |
|  |  | Not in DES | Post Traumatic Stress Syndrome (PTSD) | 9411 | 30% | 20050728 | 20050416 |
|  |  | Not in DES | Tinnitus | 6260 | 10% | 20051213 | 20050416 |
|  |  | Not in DES | Bilateral Hearing Loss(Original VARD--no exam) | NSCthen6100 | 0% | 20051213 | 20050416 |
|  |  | Not in DES | Residual s/p Removal of Benign Lipoma on Neck | 7819-7805 | 0% | 20051215 | 20050416 |
|  |  | Not in DES | S/P right Foot Plantar Warts with Bilateral Great Toe Calluses(Original VARD--no exam) | NSCtphen7899-7819 | 0% | 20051215 | 20050416 |
|  |  |  |  | 3 x Conditions NSC |  |  |  |  |
| **TOTAL Combined: 10%** | **TOTAL Combined (*Includes Non-PEB Conditions*):** **50% from 20050416**  |

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ANALYSIS SUMMARY:

Left Shoulder

The CI initially injured his left shoulder (dominant side) after a fall on an outstretched hand in 2001. His initial work-up included a Magnetic Resonance Imaging (MRI) that was negative for a SLAP (superior labral tear from anterior to posterior) lesion. A SLAP lesion is an injury to the [glenoid labrum](http://en.wikipedia.org/wiki/Glenoid_labrum) (fibrocartilaginous rim attached around the margin of the glenoid cavity). He was diagnosed with multidirectional instability. He was placed on limited duty (LIMDU) and after a period of activity modification and physical therapy he was found to be fit for full duty. Over time he continued to have pain and feelings of instability despite physical therapy, activity modification, and non-steroidal anti-inflammatory (NSAID) medication. The pain was worse with weight bearing activities and any type of overhead work. The pain was in the anterior aspect of his left shoulder. He had constant cracking, popping, stabbing pain, stiffness but the condition did not cause incapacitation. Motor and sensory examinations were normal as were X-rays and magnetic resonance arthrogram. On the Veterans Administration (VA) Compensation & Pension (C&P) examination the CI had pain-limited range of motion (ROM) of the left shoulder with the limitation noted in the chart below. After repeated motion, he had additional pain and fatigue. The military examination documented a decreased flexion of the left shoulder but presence or absence of pain was not documented.

He had a second limited duty board in September 2004 and the following duty limitations were recommended: Stationed in conus near a military treatment facility with no shipboard duties, no pushups, no Physical Fitness Test, no pull-ups, no lifting greater than 10 lbs overhead, and no deployments. These limitations were set to expire on 20050503. His case was referred for Medical Evaluation Board (MEB) and in February 2005 the PEB determined he was unfit for continued Naval service secondary to his left shoulder condition.

(Separation Date: 20050415)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Left ShoulderMovement | Normal ROM | ROM Mil20041117(5 months prior to separation) | ROM VA20051215(8 months after separation) | ROM VA PAIN20051215 (8 months after separation) |
| Forward Elevation (Flexion) | 0 - 180 | 175 | 100 | 100 |
| Abduction | 0 - 180 | Not documented | 100 | 100 |
| External Rotation | 0 - 90 | 75 | 70 | 70 |
| Internal Rotation | 0 - 90 | “Well above T6” | 70 | 70 |
| Notes: |  | This was passive and active motion; Rotator cuff muscles all 5/5 strength; all impingement tests negative; laxity of his shoulder in the right lateral decubitus position reveals 2+ anterior laxity with 1+ posterior laxity and trace sulcus | Motor and sensory within normal limits; Pain increased with repeated motion |

Other Conditions

Left Knee Patellofemoral Syndrome

Limitations on standing are mentioned in the Commander’s Statement (NMA) but not in the LIMDU paperwork in the record. This condition does not appear to reach the level of unfitness.

Other Conditions Not in the DES

Post Traumatic Stress Syndrome (PTSD), Tinnitus, Bilateral Hearing Loss, Residual S/P Removal of Benign Lipoma on Neck, and S/P right Foot Plantar Warts with Bilateral Great Toe Calluses

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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 determined by simple majority that the CI’s condition is most appropriately rated at 20% for Left Shoulder Pain Likely Represents Mild Impingement.

VASRD code 5299-5203 does not afford any rating advantage to the CI over 5099-5003. However, the CI has no impairment of either his clavicle or his scapula and no degenerative changes on x-rays so neither of these codes is the most accurate. VASRD code 5299-5201 for painful motion is more accurate and a rating of 20% for painful motion is warranted under this code. In accordance with VASRD §4.59, painful motion with joint or periarticular pathology is recognized as productive of disability and entitled to at least the minimum compensable rating for the joint. For the dominant side shoulder, the minimal compensable level is 20%.

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

The Board also considered the CI’s Left Knee Patellofemoral Syndrome and unanimously determined that this condition was not unfitting at the time of separation from service and therefore no rating is applied. This condition did not prevent the CI from performing required duties and no duty restrictions are attributed to this condition.

The other diagnoses rated by the VA (Post Traumatic Stress Syndrome (PTSD), Tinnitus, Bilateral Hearing Loss, Residual S/P Removal of Benign Lipoma on Neck, and S/P right Foot Plantar Warts with Bilateral Great Toe Calluses) were not mentioned in the Disability Evaluation System (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 recommends that the CI’s prior determination be modified as follows, effective as of the date of his prior medical separation.

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| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Left Shoulder Pain Likely Represents Mild Impingement | 5299-5201 | 20% |
| **COMBINED** | **20%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090828, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

 Deputy Director

 Physical Disability Board of Review

MEMORANDUM FOR DEPUTY COMMANDANT, MANPOWER & RESERVE AFFAIRS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATION

 ICO XXXXX, FORMER USMC, XXX XX XXXX

Ref: (a) DoDI 6040.44

Encl: (1) PDBR ltr dtd 9 Jul 10

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

2. The subject member’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 percent (increased from 10 percent) effective 15 April 2005.

3. Please ensure all necessary actions are taken to implement this decision, including the recoupment of previously paid funds if appropriate, and notification to the subject member once those actions are completed.

 Principal Deputy

 Assistant Secretary of the Navy

 (Manpower & Reserve Affairs)