RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXX BRANCH OF SERVICE: MARINE CORPS

CASE NUMBER: PD00900590 BOARD DATE: 20100525

SEPARATION DATE: 20080815

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SUMMARY OF CASE: This Covered Individual (CI) was a Lance Corporal/E-3 (Combat Engineer/1371), medically separated from the Marine Corps in August 2008 after 1 year and 6 months of service. The basis for separation was Chronic Right Knee Pain due to Patello-femoral Chondromalacia. The painful Right Knee condition was determined to be medically unacceptable. The CI was referred to the Physical Evaluation Board (PEB), found unfit for the painful Right Knee condition (Patello-femoral Chondromalacia), and separated at 10% disability using the Veterans Affairs Schedule for Rating Disabilities (VASRD) and applicable Navy and DoD regulations.

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CI’s CONTENTION (20090925): The CI states: “I think my findings should be changed due to the doctors’ evaluations. The doctors at Bethesda Naval Center examined my knee and their findings were very discouraging. They said that I was no longer fit for military duty and only some activities in civilian life. My knee as of now can never obtain another surgery, and I live with severe pain, and I am limited in my daily activities, including work and supporting my family. Since my discharge I have injured myself further, due to weakness and severe pain. While simply walking, I often fall. While working, instead of using my legs for lifting purposes, I use my back. Therefore I have pulled several muscles in my lower back.”

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RATING COMPARISON:

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| --- | --- |
| **Service IPEB 20080606** | **VA (n/a)** |
| **Condition** | **Code** | **Rating** | **Date** | **Condition** | **Code** | **Rating** | **Exam** | **Effective** |
| Right Patellofemoral Chondromalacia with Anterior Knee Pain, Persistent | 5299-5003 | 10% | 20080606 | CI did not apply for VA Examination or Disability; verified by PDBR Intake Unit | n/a |  |  |  |
| Status Post Medial Meniscal Tear | CAT II | 20080606 | CI did not apply for VA Examination or Disability; verified by PDBR Intake Unit | n/a |  |  |  |
| **TOTAL Combined: 10%** | **TOTAL Combined (*Includes Non-PEB Conditions*): n/a**  |

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ANALYSIS SUMMARY:

Chronic Right Knee Pain – CI entered the Marine Corps Reserve in August 2005. Approximately 19 months later (March 2007) he jumped off the back of a military vehicle and twisted his right knee. Initially was treated with oral non-steroidal anti-inflammatory drugs and Physical Therapy. A Magnetic Resonance Imaging (MRI) of right knee showed meniscal tear and partial tear of quadriceps tendon fibers. Right knee arthroscopic surgery was performed on 1 Oct 2007 by Dr. R. According to her note, she did partial medial meniscectomy, partial resection of inter-meniscal ligament, synovectomy of the patello-femoral joint, and localized chondroplasty of the medial tibial plateau and patella. Following surgery, the right knee continued to get worse, especially associated with prolonged flexion of the right knee, such as prolonged sitting. He also reported popping and locking up. CI also experienced increased pain with walking on uneven surfaces, stairs and hills. He had good range of motion (full extension, and flexion past 125-130 degrees), but he had pain with motion. Several examiners have confirmed that knee ligaments were intact, and there was no documented ligamentous instability of the right knee. The Board has examined all of the evidentiary information available, with regard to CI’s right knee condition. Following lengthy discussion, the Board unanimously recommends a disability rating of 10% for the right knee condition. The Board also unanimously agrees that “Status Post Medial Meniscal Tear” is contributory to the painful Right Knee Condition, but is not, in and of itself, unfitting. There is no justification for adding it as an independently unfitting condition. Therefore, a recommendation of “no recharacterization” of the PEB’s adjudication for the Right Knee condition is indicated. The Board understands that since the time of separation, CI has injured himself further, due to weakness and pain. However, the Board must base its findings on the CI’s condition at separation. Any injuries that occur after separation from service, are outside the scope of the Board and are therefore considered not relevant to the Board’s proceedings.

History of Other Conditions (documented in Disability Evaluation System (DES) package)- Tonsillectomy, Gastric ulcers, Dyspepsia, Bronchitis, Sinus irritation, Headaches, Sleep disturbance, and Influenza were all discussed and considered by the Board. There is no clearly documented evidence that any of these conditions caused any significant adverse effect on the performance of required military duties. These other conditions are all judged by the Board to be not unfitting at the time of separation from service, and are not relevant for disability rating. The Board therefore has no reasonable basis for recommending any additional unfitting conditions.

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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. Also, PEB reliance on DoDI 1332.39 for rating the Right Knee condition was operant in this case and the condition was adjudicated independently of that instruction by the Board.

In the matter of the “Right Patello-femoral Chondromalacia with Anterior Knee Pain” and IAW VASRD §4.71a, the Board unanimously recommends no recharacterization of the PEB coding or rating. In the matter of the “Status Post Medial Meniscal Tear,” the Board unanimously recommends no recharacterization of the PEB adjudication as not unfitting. In the matter of the History of Tonsillectomy, Gastric ulcers, Dyspepsia, Bronchitis, Sinus irritation, Headaches, Sleep disturbance, Influenza or any other medical conditions eligible for Board consideration; the Board unanimously agrees that it cannot recommend any findings of unfit for additional rating at separation.

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

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090925, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

 President

 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 11 Jun 10

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