RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: AIR FORCE

CASE NUMBER: PD1000126 SEPARATION DATE: 20090810

BOARD DATE: 20110112

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SUMMARY OF CASE: Data extracted from available records reflects that this covered individual (CI) was an active duty SRA, E4 (1N471 Network Intel Analysis Craftsman) medically separated from the Air Force in 2009 after eight years of service. The medical basis for the separation was bilateral foot and calf pain. His pain began in 2004 after he sprained his ankles playing basketball (right in Jul 04, left in Aug 04). He was treated conservatively with physical therapy, orthotics, ankle supports and medications with no improvement. He was issued a temporary L-2 profile with running restrictions and subsequently gained a significant amount of weight (from 230 lbs in Jul 04 to 290 lbs in Apr 07), which prevented him from passing Air Force fitness tests. He underwent an Informal Physical Evaluation Board (IPEB) in Jul 07 that found his chronic bilateral ankle pain and obesity not unfitting and returned him to duty (Assignment Limitation Code: ALC C-1). After a motor vehicle accident (MVA) in Jul 08 which exacerbated his right ankle symptoms, the CI underwent bilateral ankle surgery in Aug 08 with some improvement in his ankle pain and stability. Despite treatment, he did not respond adequately to deploy or participate in the aerobic or anaerobic portions of the physical fitness test, was issued a permanent L-4 profile and underwent a Medical Evaluation Board (MEB). Bilateral foot and calf pain was addressed in the narrative summary (NARSUM) and forwarded to the IPEB as medically unacceptable IAW AFI 44-113 and 48-123. No other conditions appeared on the MEB’s AF IMT 618 submission. Additional conditions supported in the Disability Evaluation System (DES) file (including bilateral shoulder pain and back pain subsequent to the Jul 08 MVA) are discussed below, but were not forwarded for PEB adjudication on the AF IMT 618. The IPEB adjudicated the bilateral foot and calf pain condition as separate right and left foot, calf pain unfitting conditions, rated 10% each, IAW the Veterans Administration Schedule for Rating Disabilities (VASRD) and with consideration of the bilateral factor. The CI did not appeal for a Formal PEB, and was medically separated with a 20% combined disability rating.

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CI CONTENTION: The CI states: “Bilateral Feet.” He additionally lists all of his VA conditions and ratings as per the rating chart below (depression, skin abscess, tender scar, hypertension and xeroderma). A contention for their inclusion in the separation rating is therefore implied. As a matter of policy, all service conditions are reviewed by the Board for their potential contribution to its rating recommendations.

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RATING COMPARISON:

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| --- | --- | --- | --- | --- | --- | --- |
| **Service IPEB – Dated 20090626** | | | **VA (5 Mo. after Separation) – All Effective 20090811** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Right Foot, Calf Pain s/p Surgery | 5271 | 10% | Bilateral Pes Planus | 5276 | 0% | 20091119 |
| Right Ankle Scar, Post-Op …. | 7805 | 0% | 20091119 |
| Left Foot, Calf Pain s/p Surgery | 5271 | 10% | Bilateral Pes Planus | 5276 | 0% | 20091119 |
| Left Ankle Scar, Post-Op …. | 7805 | 0% | 20091119 |
| ↓No Additional MEB Entries↓ | | | Depressive Disorder, NOS | 9499-9434 | 30% | 20091119 |
| Skin Abscess, Scalp | 7819-7800 | 30% | 20091119 |
| Tender Abscess a/w … Scalp | 7819-7804 | 10% | 20091119 |
| Left Wrist Strain (Nondominant) | 5215-5024 | 10% | 20091119 |
| Right Wrist Strain (Dominant) | 5215-5024 | 10% | 20091119 |
| Left Shoulder Tendinitis | 5024 | 10% | 20091119 |
| Thoracic Strain w/ DDD L4/5 | 5243-5237 | 10% | 20091119 |
| Xeroderma of Face | 7806 | 10% | 20091119 |
| Hypertension | 7107 | 0% | 20091119 |
| Right Shoulder Pain, Right Talus Fracture, Plantar Fasciitis, Sinusitis w/ Sinus Headaches, Snoring and Fatigue w/ Poor Sleep Patterns, Migraines, Obesity | | | NSC |
| **TOTAL Combined: 20%** | | | **TOTAL Combined (*Includes Non-PEB Conditions*): 80%** | | | |

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ANALYSIS SUMMARY:

Bilateral Foot and Calf Conditions. As noted above, the PEB separately rated each ankle/foot/calf condition using coding for ankle limitation of motion, at 10% for each side (5271 Ankle, limited motion of: Moderate is the 10% VASRD criteria). The Board considered the CI’s overall ankle/calf/foot conditions and disability and determined that the CI did not meet the criteria for §4.63 (loss of use) and discussed multiple other coding schema within §4.71a, with code 5271 being predominate. The CI’s gait was normal and he did not have foot drop. Pain was a significant component of his disability and that is included in rating his conditions. In addition to the multiple ankle, calf, foot, and other lower extremity exams in the record, there were two range-of-motion (ROM) evaluations in evidence which the Board weighed in arriving at its rating recommendation. Both of these exams are summarized in the chart below.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Ankle | Surgery Date: 20080807 Separation Date: 20090810 | | | |
| ROM | MEB – 20090410 (PT ROMs 20090217) | | VA C&P - 20091119 | |
| Right | Left | Right | Left |
| Dorsiflexion 20⁰ normal | 2⁰ | 8⁰ | 10⁰ | 15⁰ |
| Plantar Flexion 45⁰ normal | 50⁰ | 55⁰ | 60⁰ | 65⁰ |
| §4.71a Rating | 10% | 10% | 0% | 0% |
| Comments | PT: … both ankle pain and instability, restrict from high impact activities; NARSUM: inversion nontender; AHLTA: pain elicited by motion | | ROMs (above) measured “without pain”; ‘ROMs appear appropriate, no evidence of painful motion’ | |

There were two VA Compensation and Pension (C&P) exams of the lower extremities, one performed by a Physical Medicine and Rehabilitation (PMR-MD) physician, and one by another physician (VA-MD). Only the PMR-MD’s exam provided ROM measurements. The VA-MD merely stated that bilateral foot ranges of motion appeared “appropriate.” Both the VA and MEB exams documented reduced range of ankle dorsiflexion. Given the totality of the ankle limited motions, the Board agreed these could reasonably be considered “moderate” ROM limitation (10% IAW 5271), but did not reach the level of “marked” (20%). Painful motion was noted in the MEB ROMs (6 months post surgery), and in the NARSUM AHLTA note (8 months post surgery), although it was not noted in the NARSUM. The painful motion may have been residual from the ankle surgery 6-8 months prior, and had apparently resolved by the time of the VA C&P exams 15 months post surgery. The Board agreed that considering VASRD §4.3 (reasonable doubt), each of the CI’s ankles could alternatively be rated as 5003 at 10% for painful motion of each ankle IAW VASRD §4.59 (painful motion) rather than using code 5271. The VA also evaluated the CI’s bilateral lower extremity surgical scars and bilateral Pes Planus, both rated 0%. Pes Planus was also noted on the CI’s enlistment physical in May 01. Neither the scars or Pes Planus condition rose to the level of being unfitting or separately ratable. Any impact they may have had on the CI’s primary unfitting conditions were considered in the rating. All evidence considered there is not reasonable doubt in the CI’s favor supporting a change from the PEB’s rating decision for the bilateral ankle and foot conditions as 5271 at 10% each.

Other Conditions. No other conditions were contended. The CI was diagnosed with obesity (BMI 38.5). IAW DODI 1332.38, obesity falls under “conditions and circumstances not constituting a physical disability,” and cannot be adjudicated as separately unfitting. There was no deduction from the CI’s unfitting ankle/calf/foot rating IAW §4.71a for any potential contribution from obesity. The VA identified the following compensable conditions within 12 months of separation: Depressive Disorder, Left Shoulder, Thoracic Strain, Scalp abscess scar and tenderness, Bilateral Wrist Strains, and Xeroderma of the Face (skin). All of the conditions except for Xeroderma were mentioned in the DES file. The NARSUM specifically addressed bilateral shoulder pain, back pain, right wrist pain, and skin abscess of the scalp as acceptable conditions. The MEB physical exam, summarized on the Report of Medical Assessment, DD Form 2697, identified anxiety as “stable” and bilateral hand pain as chronic. Tinnitus was also mentioned in the DES file, but did not interfere with understanding speech and it does not appear as a VA claimed condition. Hypertension was a noted condition and no sequelae of hypertension interfered with duty (VA 0% rating). Anxiety and depression were specified in the CI’s additional comments to the MEB as beginning after an MVA in Jul 08. The CI was seen by mental health for chronic pain and mild depression/anxiety and was prescribed medication. The mental status exams in the record did not indicate abnormalities that would interfere with performance of duties. The CI’s back and shoulder pain developed after an MVA in Jul 08. In Jun 09, two months after the MEB (one year after the MVA), the CI’s back and shoulder conditions had not reached maximum medical improvement. The CI was temporarily profiled for these conditions, with restrictions against push-ups and sit-ups. Scalp abscess scar and tenderness and Bilateral Wrist Strains were noted as chronic minor conditions with no linkage to fitness. The Commander’s Statement specifically noted that the CI had no decrease in duty performance and recommended retention. The Commander indicated that the CI’s profile “limits his fitness workouts and his ability to adhere to Air Force fitness standards.” He noted that the CI was demoted -- this appeared to be due to failure to meet weight standards, and the Commander stated: “His [CI’s] problems arise from personal choices on how to address his physical condition, and accordingly are not relevant to a Medical Evaluation.” There was no evidence in the DES file to suggest any of these conditions were unfitting at the time of separation. The only permanently profiled conditions were those of the unfitting bilateral ankles/calf and feet, and the Commanders’ Statements did not identify any limitations to duty performance. All evidence considered, there is not reasonable doubt in the CI’s favor supporting addition of any of these conditions as unfitting for separation rating. The Facial Xeroderma condition and any other conditions not associated with the recommendations already rendered by the Board remain eligible for consideration by the Air Force Board for Correction of Military Records (AFBCMR).

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. The Board did not surmise from the record or PEB ruling in this case that any prerogatives outside the VASRD were exercised. In the matter of the bilateral ankle and foot/calf conditions and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication of 5271 at 10% for each ankle (combined 20% including bilateral factor). In the matter of the bilateral shoulder pain, back pain, depressive disorder, skin abscess, tender scar, hypertension, 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 therefore recommends that there be no recharacterization of

the CI’s disability and separation determination.

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| **UNFITTING CONDITION** | | **VASRD CODE** | **RATING** |
| Right Foot, Calf Pain s/p Surgery | | 5271 | 10% |
| Left Foot, Calf Pain s/p Surgery | | 5271 | 10% |
| **COMBINED (Incorporating BLF)** | | **20%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20100219, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

Deputy Director

Physical Disability Board of Review

SAF/MRB

1535 Command Drive, Suite E-302

Andrews AFB, MD 20762-7002

Reference your application submitted under the provisions of DoDI 6040.44 (Section 1554, 10 USC), PDBR Case Number PD-2010-00126.

After careful consideration of your application and treatment records, the Physical Disability Board of Review determined that the rating assigned at the time of final disposition of your disability evaluation system processing was appropriate. Accordingly, the Board recommended no re-characterization or modification of your separation with severance pay.

I have carefully reviewed the evidence of record and the recommendation of the Board. I concur with that finding and their conclusion that re-characterization of your separation is not warranted. Accordingly, I accept their recommendation that your application be denied.

Sincerely

Director

Air Force Review Boards Agency

Attachment:

Record of Proceedings

cc:

SAF/MRBR