RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: AIR FORCE

CASE NUMBER: PD1000466 SEPARATION DATE: 20080708

BOARD DATE: 20110301

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty Senior Airman/E-4 (2A353A, F15 Aircraft Maintenance) medically separated from the Air Force in 2008 after five years of active duty service. The medical basis for the separation was a right knee condition (right patellar tendonosis and patellofemoral syndrome) as a result an injury while riding on an escalator in March 2004. Since his injury, the CI experienced persistent anterior pain and pain in his right patellar tendon which limited his ability to perform his job and participate in physical fitness training and testing. He was placed on nearly consecutive profiles (L-3 to 4 since September 2005) and treated with narcotics and other medications, physical therapy, and a right knee brace. His pain persisted and the CI underwent arthroscopy and patellar tendinoplasty twice, without relief. The CI was unable to function as a crew chief and temporarily worked in another career field. He did not improve and was referred to the Medical Evaluation Board (MEB). The CI was also diagnosed with mild obstructive sleep apnea (OSA) in August 2006 and underwent surgery (uvulopalatopharyngoplasty [UPPP]) in January 2007. After the MEB was submitted, the CI underwent another sleep study that indicated mild to moderate OSA, controlled with CPAP. Right patellar tendonosis and patellofemoral syndrome were addressed in the narrative summary (NARSUM) and forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW DoDI1332.39. No other conditions appeared on the MEB’s submission. The informal PEB (IPEB) adjudicated the right patellar tendonosis and patellofemoral syndrome as unfitting and rated it at 10%. The CI appealed to the formal PEB (FPEB) and Secretary of the Air Force Personnel Council (SAFPC) and was medically separated with a 10% disability rating.

CI CONTENTION: The CI states, “Additional Findings Not Rated” (block 3). He elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

RATING COMPARISON:

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| --- | --- | --- | --- | --- | --- | --- | --- |
| **Service FPEB – 20080411** | | | **VA (5-6 Mo. After Separation) – All Effective 20080709** | | | | |
| **Condition** | **Code** | **Rating** | **Condition** | | **Code** | **Rating** | **Exam** |
| R Knee Tendonosis & PFS … | 5099-5003 | 10% | R Knee ACL Tear, …\* | | 5260 | 10% | 20090106 |
| OSA | CAT II | | OSA | | 6847 | 50% | 20090106 |
| ↓No Additional MEB/PEB Entries↓ | | | Lumbosacral Strain | | 5237 | 10% | 20090106 |
| L Knee DJD … | | 5260 | 10% | 20090106 |
| Depressive Disorder, NOS | | 9434 | 10% | 20090119 |
| Scar, R Forearm Burn … | | 7894 | 0% | 20081224 |
| PFB | 7899-7806 | | 0% | 20081224 |
| Bilateral Hearing Loss - NSC | | | | |
| **TOTAL Combined: 10%** | | | **TOTAL Combined (*Includes Non-PEB Conditions*): 70%** | | | | |

ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed in the CI’s application: that there should be additional disability assigned for his other conditions and for the gravity of his condition and predictable consequences which merit consideration for a higher separation rating. It is a fact, however that the Disability Evaluation System (DES) has neither the role nor the authority to compensate service members for conditions or potential complications of conditions that did not impair duty performance or that resulted in a medical separation. This role and authority is granted by Congress to the Veteran’s Administration (VA). The VA evaluates on service connectedness without regard to fitness for duty. This case specifically focuses on the CI’s fitness for duty at separation for contended conditions and rating the right knee condition and any other condition additionally found to be unfitting at separation.

Right Knee Condition. There were two goniometric range of motion (ROM) evaluations and knee examinations in evidence which the Board weighed in arriving at its rating recommendation. The ROM findings for the two exams are summarized in the chart below.

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| --- | --- | --- |
| Goniometric ROM - R Knee | MEB - ~ 7 Mo. Pre-Sep | VA C&P - ~ 6 Mo. Post-Sep |
| Flexion (140⁰ normal) | 130⁰ and 140⁰ (2 exams) | 102⁰ |
| Extension (0⁰ normal) | - | 0⁰ |
| §4.71a Rating | 10% | 10% |

Painful motion was elicited on both examinations and was the primary basis of the rating evaluation IAW §4.59 (painful motion). The VA Compensation & Pension (C&P) and MEB addendum examinations did not differ significantly in respect to ratable parameters, with minimal reduction of flexion. Knee flexion was measured at 130⁰ by the MEB and 102⁰ by the VA. Thus there is no compensable ROM impairment for either knee (absent §4.59) since flexion would have to be less than 60⁰. The MEB and VA evaluations documented the absence of mechanical instability, locking, or frequent effusions. Thus, there is no route to a rating higher than 10% or criteria for separate ratings of the knee. The PEB and VA chose different coding options for the knee condition. The PEB used 5099-5003 to analogously code for patellofemoral pain syndrome but could have also used 5024 tenosynovitis. The VA used torn anterior cruciate ligament (ACL) without using it analogously. All of these coding options lead to equivalent ratings. The PEB rated the knee IAW the Veterans Administration Schedule for Rating Disabilities (VASRD) §4.71a, coded 5003 for degenerative arthritis. The MEB examiner documented that there “is a slight bit of grading which to me indicates a very small amount of fluid present there” and some small joint effusion was documented on the magnetic resonance imaging (MRI) proximal to separation. This provides evidence justifying “swelling” in the absence of limitation of motion. The Board agreed that there was not a more favorable coding choice than that applied by the PEB. All evidence considered, there is not reasonable doubt in the CI’s favor supporting a change from the PEB’s rating decision for the knee condition.

Other PEB Condition (Obstructive Sleep Apnea). The CI was medically evaluated for snoring and diagnosed with mild to moderate OSA, and was prescribed CPAP with correction of most of his daytime somnolence. The CI was prescribed sleep aides for difficulty sleeping and was evaluated for depression (diagnosed with adjustment disorder with depressed mood). The CI requested to be found unfit due to persistent daytime somnolence. There is, however, no evidence in this case that his sleep apnea was associated with any unfitting impairments. There was no missed work due to oversleeping or daytime somnolence. This condition was not profiled at separation and not implicated as unfitting in the Commander’s statement. The PEB fitness adjudication was that there was no unfitness due to sleep apnea. The CI’s SAFPC appeal letter, including his letters from a co-worker and his supervisor were considered. All evidence considered, there is not reasonable doubt in the CI’s favor supporting recharacterization of the FPEB fitness adjudication for the OSA condition.

Other Conditions (Low Back Pain/Abdominal Pain). Low back pain was addressed in the MEB History and Physical examination and noted the CI had pain in September of 2007 and was simultaneously evaluated for an abdominal cause of the pain. Computed tomography (CT) scan was negative for nephrolithiasis, but incidental mesenteric lymphadenitis was diagnosed. The CI continued to have back pain and had a repeat CT scan in January 2008 which again showed enlarged nodes and a possibility of inflammatory bowel disease which was inconsistent with the CI’s symptoms. The MEB suggested ruling out cholecystits (gall bladder problems). The service treatment records (STR) included several examinations by a physical therapist and a chiropractor that documented strain of the thoracic and lumbosacral spine. X-rays revealed straightening of the LS spine, loss of L5-S1 disc height, with mild facet sclerosis. By April 2008 the STR revealed the back pain had resolved and there were only occasional twinges. The CI had an L-4 profile for his knee condition and his commander mentioned bending and kneeling limitations to duty performance. Although it is possible that impairment from the low back condition was overshadowed by the knee condition, that possibility is unduly speculative as the basis for a Board recommendation for unfitness. The condition was not specifically tied to unfitness at the time of separation and there is not a reasonable link to fitness for this condition. All evidence considered, there is not reasonable doubt in the CI’s favor supporting addition of low back and abdominal condition as an unfitting condition for separation rating.

Remaining Conditions. Several relatively minor medical conditions were identified in the NARSUM and MEB physical. None of these conditions were found to be unfitting at the time of separation, none carried attached profiles, and none were implicated in the Commander’s statement. These conditions were reviewed by the Action Officer and considered by the Board. Although several of these conditions were awarded minimal compensable ratings by the VA, it was determined that none could be argued as unfitting and subject to separation rating. Six additional conditions, degenerative joint disease of the left knee, depressive disorder not otherwise specified, residual burn scar on the right forearm, pseudofolliculitis barbae, bilateral hearing loss were noted in the VA rating decision, but were not documented in the DES file. The Board does not have the authority under DoDI 6040.44 to render fitness or rating recommendations for any conditions not considered by the DES. The Board, therefore, has no reasonable basis for recommending any additional unfitting conditions for separation rating.

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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. 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 knee condition and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication as unfitting at 10%. In the matter of the OSA condition, the Board unanimously recommends no recharacterization of the FPEB adjudication as not unfitting. In the matter of the low back and abdominal condition 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.

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 Patellar Tendonosis and Patellofemoral Syndrome | 5099-5003 | 10% |
| **COMBINED** | **10%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20100405 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-2010-00466.

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