RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXX BRANCH OF SERVICE: Air force

CASE NUMBER: PD1100124 SEPARATION DATE: 20080206

BOARD DATE: 20110929

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an Air National Guard member, TSgt/E-6 (3P071, Security Forces Craftsman) medically separated for chronic bilateral leg compartment syndrome. The condition began in 2002 and was not a consequence of injury or trauma. Fasciotomy of the left leg did not result in significant improvement in symptoms. He did not respond adequately to further conservative treatment and was unable to perform within his Air Force specialty (AFS) or meet physical fitness standards. He was issued a permanent L3 profile and underwent a Medical Evaluation Board (MEB). Chronic bilateral compartment syndrome was forwarded to the USAF Physical Evaluation Board (PEB) as medically unacceptable. No other conditions appeared on the MEB’s submission (MEB performed at Army medical facility using Army form). Other conditions included in the Disability Evaluation System (DES) file will be discussed below. The Informal PEB (IPEB) adjudicated the left leg chronic compartment syndrome condition and right leg chronic compartment syndrome as unfitting, rated 10% each IAW with the Veterans Administration Schedule for Rating Disabilities (VASRD). The CI made no appeals and was medically separated with a 20% combined disability rating.

CI CONTENTION: The CI states: “Chronic Compartment Syndrome, status post anterior and lateral compartment releases, with pain and anterolateral pinprick hypesthesia in left and right leg 10% in each. I believe my rating should be increased due to a couple reasons. I wanted to retire in the Air Force; this show in my time in service along with the fact I had just received new AGR orders. My medical condition effected my retirement because of the Air Force "World Wide deployment Status." No other position was offered by my commander to stay in until I reach 20 years. My understanding is other Military Branches offer you another position that you can perform until you retire. I was performing the Unit police desk fine and could have continued. After many medical evaluations I was told there would not be any way I could stay in because of the World Wide Qualification. The VA has given me a 30% rating at this time, if I received this rating from the Air Force I would be able to retire with benefits.” He elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

RATING COMPARISON:

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| **Service IPEB – Dated 20071119** | | | **VA (1 Mo. After Separation) – All Effective 20080207** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Compartment Synd. Left Leg | 8721 | 10% | Compartment Synd. Left Leg | 8599-8523 | 10% | 20080312 |
| Compartment Synd. Right Leg | 8721 | 10% | Compartment Synd. Right Leg | 8599-8523 | 10%\* | 20080312 |
| ↓No Additional MEB Entries↓ | | | Tinnitus | 6260 | 10% | 20080321 |
| Not Service Connected x 3 | | | 20080321 |
| **Combined: 20%** | | | **Combined: 30%** | | | |

\*First VA decision 28 August 2008 rated right leg 0%; increased to 10% on 1 December 2008

ANALYSIS SUMMARY: The Military Services, by law, can only rate and compensate for those conditions that were found unfitting for continued military service based on the severity of the condition at the time of separation and not based on possible future changes. The VA however can rate and compensate all service connected conditions without regard to their impact on performance of military duties, including conditions developing after separation that are direct complications of a service connected condition. The VA can also increase or decrease ratings based on the changing severity of each condition over time. The CI asserts that he should have been offered another position that would have allowed him to remain in the Air Force until retirement. It is noted for the record that the Board has neither the jurisdiction nor authority to scrutinize or render opinions in reference to the CI’s statements in the application regarding suspected Service improprieties in the processing of his case. The Board’s role is confined to the review of medical records and all evidence at hand to assess the fairness of PEB rating determinations, compared to VASRD standards, based on severity at the time of separation. It must also judge the fairness of PEB fitness adjudications based on the fitness consequences of conditions as they existed at the time of separation. The CI’s contention regarding retention in another Air Force career field is not eligible for Board recommendations but eligible for submission to the Air Force Board for Corrections of Military Records (AFBCMR).

Bilateral Leg Condition. In February 2006, the CI underwent evaluation of a 2 year history of left lower leg pain with running and was diagnosed with chronic exertional compartment syndrome of the left leg based on exercise pressure testing in April 2006. He underwent anterior and lateral compartment fasciotomies of the left leg in May 2006 with partial response of symptoms. Complaint of similar exertional symptoms affecting the right leg appeared in the record in October 2006, however pressure testing to confirm a diagnosis of compartment syndrome was not performed since surgical treatment was not recommended. At the time of the MEB narrative summary (NARSUM), 22 June 2007 (seven months prior to separation), the CI’s primary complaint was leg pain, especially after activity. He also experienced subjective left leg weakness. The NARSUM examiner noted a normal gait, no swelling or muscle atrophy, normal distal pulses and normal strength of both extremities. Diminished sensation was found over the anterolateral aspect of the left leg (correlating with the distribution of the left superficial peroneal nerve). Although a prior x-ray showed a subtle stress fracture of the right tibia, a follow-up x-ray was normal. Electrodiagnostic studies of the left lower extremity were normal. The orthopedic VA compensation and pension (C&P) examiner (one-month after separation) reported normal gait and posture without use of an assistive device. There was no tenderness, swelling, deformity or instability of the right leg. Mildly diminished strength of right foot dorsiflexion and plantar flexion was present. Sensory and vascular assessments were normal. The left leg also showed mild weakness of foot dorsiflexion and plantar flexion. The C&P examiner concluded “Veteran had a limitation in prolonged walking and running; however, there is no evidence of additional limitation either due to pain, weakness, fatigue, lack of endurance after repetitive motion, incoordination, or flare-up. There is no evidence of adverse impact on activities of daily living, personal grooming, hygiene, or transportation. Veteran's occupation would be restricted in occupation requiring prolonged running or prolonged walking.” A concurrent neurology C&P examiner reported no weakness or atrophy. The neurologic examination was entirely normal except for a lateral cutaneous neuropathy manifested only by diminished sensation of the lateral aspect of the left leg. The PEB’s 10% rating for each leg was based on the 8721 code for mild neuralgia of the common peroneal nerve, while the VA’s 10% rating reflected use of an analogous 8523 code for moderate paralysis of the anterior tibial nerve. While the CI’s disability is not specifically listed in the rating schedule, the PEB’s coding approach and rating is consistent with the CI’s clinical history and §4.124a standards. The VA’s coding approach is reasonable but there is no clinical evidence specifically indicating tibial nerve involvement, and the severity of the condition is more consistent with ‘mild’ (0% rating) than ‘moderate’ under that code.

Due to the underlying pathology and the presence of mild muscle weakness identified by one examiner, the Board also considered rating under the codes for muscle disabilities (5311 and 5312, muscle group XI and XII) rather than a peripheral nerve code. Although the orthopedic C&P examiner indicated the presence of mild weakness, other examiners including the NARSUM orthopedic examiner, the civilian orthopedic surgeon (21 December 2006) and the neurology C&P examiner documented normal strength. The electrodiagnostic testing July 2007 was normal without evidence of motor neuropathy that would cause weakness. The neurologist performing the electrodiagnostic testing recorded his examination showed the CI was “without weakness.” Under these codes, minimal weakness warrants a 0% rating, moderate 10%, providing no benefit to the CI. After due deliberation in consideration of the totality of the evidence, the Board concluded that there was insufficient cause to recommend a change from the PEB adjudication for the bilateral leg compartment syndrome condition.

Remaining Conditions. Other conditions identified in the DES file were hearing loss with tinnitus, back spasms and hyperlipidemia. Several additional non-acute conditions or medical complaints were also documented. None of these conditions were clinically or occupationally significant during the MEB period, 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. It was determined that none could be argued as unfitting and subject to separation rating. Additionally crush injury of left little finger was noted in the VA rating decision proximal to separation, but was 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.

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 left and right leg compartment syndrome conditions and IAW VASRD §4.124a, the Board unanimously recommends no change in the PEB adjudication. In the matter of the hearing loss with tinnitus, back spasms 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. The Board unanimously agrees that there were no other conditions eligible for Board consideration which could be recommended as additionally unfitting for 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** |
| Chronic Compartment Syndrome, Left Leg | | 8721 | 10% |
| Chronic Compartment Syndrome, Right Leg | | 8721 | 10% |
| **COMBINED (Incorporating BLF)** | | **20%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110324, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

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President

Physical Disability Board of Review

SAF/MRB

1500 West Perimeter Road, Suite 3700

Joint Base Andrews MD 20762

Dear XXXXXXXXXXXXX :

Reference your application submitted under the provisions of DoDI 6040.44 (Section 1554, 10 USC), PDBR Case Number PD-2011-00124.

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,

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Director

Air Force Review Boards Agency