RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXX BRANCH OF SERVICE: air force

CASE NUMBER: PD1100314 SEPARATION DATE: 20041008

BOARD DATE: 20120516

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SSgt/E-5 (4N0, Medical Technician) medically separated for severe osteoarthritis (OA) of the left knee.He was treated, but did not respond adequately to fully perform his military duties or meet physical fitness standards. He was issued a permanent profile and underwent a Medical Evaluation Board (MEB). Left knee OA and obstructive sleep apnea (OSA) were forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AFI 48-123. The PEB found the left knee OA unfitting and rated it 10%, IAW the Veterans’ Administration Schedule for Rating Disabilities (VASRD). OSA was adjudicated as category II (a condition that can be unfitting, but not compensable or ratable). One other condition, obesity, was adjudicated as category III (a condition that is not separately unfitting, and not compensable or ratable). The CI made no appeals, and was thus separated with a 10% disability rating.

CI CONTENTION: “I believe that my ratings do not accurately reflect the severity of my illnesses and injuries.”

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| **Air Force PEB – dated 20040715** | **VA (2 mo. After Separation) – All Effective 20041009** |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Severe OA, Left Knee | 5003 | 10% | Osteoarthritis, Left Knee | 5003-5257 | 10% | 20041207 |
| OSA, on CPAP | Category II | Sleep Apnea | 6847 | 50% | 20041207 |
| Obesity | Category III | No Corresponding VA Entry for Obesity | 20041207 |
| ↓No Additional MEB/PEB Entries↓ | Allergic Rhinitis | 6522 | 30% | 20041207 |
| Migraine with Dizziness  | 8100 | 30% | 20041129 |
| Cervical Strain | 5237 | 10% | 20041207 |
| Low Back Strain | 5237 | 10% | 20041207 |
| Right Knee Pain | 5260 | 10% | 20041207 |
| Hypertension | 7101 | 10% | 20041207 |
| 0% x 3 / Not Service-Connected (NSC) x 1 | 20041207 |
| **Combined: 10%** | **Combined: 90%** |

ANALYSIS SUMMARY: The Board acknowledges the CI’s assertion that service disability ratings should be considered for other conditions. While the Disability Evaluation System (DES) considers all of the CI’s medical conditions, compensation can only be offered for those conditions that cut short a service member’s career, and then only to the degree of severity present at the time of separation. However, the Department of Veterans’ Affairs (DVA) is empowered to compensate service-connected conditions and to periodically re-evaluate said conditions for the purpose of adjusting the disability rating should the degree of impairment vary over time.

Left Knee Osteoarthritis (OA). The CI has had a long history of left knee pain, and has undergone multiple surgeries on his left knee. At his May 2004 MEB evaluation, he reported pain with prolonged standing, and difficulty with any kind of running or stair activities. Physical examination of the left knee showed moderate crepitus and some left quadriceps atrophy. There was medial joint line pain and tenderness in the patellofemoral joint. Anterior drawer test and Lachman’s test were both negative. At his December 2004 Compensation and Pension (C&P) exam, there was some generalized swelling present at the left knee. Joint effusion and crepitus were noted. Drawer test and McMurray’s test were both normal. Left knee ROM is summarized in the chart below.

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| Separation Date: 20041008 |
| ROM – Left Knee |  | Ortho Surgery Clinic~ 7 mo. Pre-Sep(20040310) | MEB (NARSUM)~ 5 mo. Pre-Sep(20040519) | VA C&P~ 2 mo. Post-Sep(20041207) |
| Flexion (140⁰ is normal) |  | 120⁰ | 110⁰ | 122⁰ |
| Extension (0⁰ is normal) |  | 0⁰ | 0⁰ | 0⁰ |
| Comment |  | No mention of pain with ROM | No mention of pain with ROM | Pain at 122⁰ Flexion,and at 0⁰ Extension |
| §4.71a Rating\* |  | 0% | 0% | 10%\* |

 \*based on VASRD §4.40, §4.45, and §4.59

The Board carefully examined all evidentiary information available. The left knee limitation of motion was essentially non-compensable based on VASRD §4.71a diagnostic codes for loss of knee motion (5260 and 5261). However, IAW VASRD §4.40, §4.45, and §4.59; a 10% rating is warranted when there is satisfactory evidence of functional limitation due to painful motion of a major joint. At his VA C&P exam, he did indeed have pain with motion. The Board found no path to a rating higher than 10% since there was no evidence of ligamentous laxity, instability, subluxation, locking, or other serious joint impairment. After due deliberation and review of all the evidence, the Board unanimously recommends a rating of 10% for the left knee pain.

Other PEB Conditions. OSA and obesity were adjudicated by the PEB as not unfitting. The OSA was under good control with continuous positive airway pressure (CPAP) therapy. With regard to obesity, the CI’s weight was 268 lbs and his body mass index (BMI) was over 33. These two conditions were reviewed by the Action Officer and considered by the Board. There was no indication from the record that either of these conditions caused any significant interference with satisfactory performance of military duties. All evidence considered, there is not reasonable doubt in the CI’s favor supporting reversal of the PEB fitness adjudication for these two conditions.

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. In the matter of the left knee condition, the Board unanimously recommends no change in the PEB adjudication. In the matter of the OSA and obesity, the Board unanimously recommends no change in the PEB adjudication as not unfitting.

RECOMMENDATION: The Board, therefore, recommends that there be no recharacterization of the CI’s disability and separation determination, as follows:

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| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Chronic Left Knee Pain, due to Osteoarthritis | 5003 | 10% |
| **COMBINED** | **10%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110414, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans’ Affairs Treatment Record

 President

 Physical Disability Board of Review

SAF/MRB

1500 West Perimeter Road, Suite 3700

Joint Base Andrews MD 20762

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Dear XXXXXXXX

 Reference your application submitted under the provisions of DoDI 6040.44 (Title 10 U.S.C. §  1554a), PDBR Case Number PD-2011-00314

 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