

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXX
CASE NUMBER: PD1100749
BOARD DATE: 20121128

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20041215

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was mobilized active duty reservist Soldier, SSG/E-6, (92 G/Food Service Sergeant), medically separated for chronic pain in the right wrist due to malunion of a right wrist fracture that occurred in April 2003 during a fall while deployed to Iraq. The CI had right wrist arthroscopic surgery in February 2004, which helped the pain slightly. Despite all surgical and conservative treatments, CI continued to have pain and was unable to meet the requirements of her Military Occupational Specialty (MOS). She was issued a permanent U3/L2 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded right wrist pain due to malunion of right wrist fracture along with bilateral bunions and moderate pes planus were to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. The PEB adjudicated the right wrist condition as unfitting, rated 10%, with application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD). The remaining condition of bilateral bunions with moderate pes planus was determined to be not unfitting. The CI made no appeals, and was medically separated with a 10% disability rating. The CI specifically elected to receive severance pay in lieu of Reserve Retirement with entitlement to retired pay at age 60.

CI CONTENTION: "I had two major surgeries at one time before I was released from active duty that was not included in my med board evaluation. I just all the medical conditions to be included. The staff at Fort Gordon medical board stated that the VA would take care of it." In the remarks section: "I just want the surgery to be included in my med board rating. The counselors at Fort Gordon, Georgia completed the paperwork knowing that the surgery should have been included. Instead they just had me sign their med board letter. They never stated that [m]y surgery needs to be included in the med board package. I was a reserve soldier and did not know the process and the active duty staff did not try to correct the matter. Instead, they just said the VA will take care of you. I worked and did what was asked of me and when it was time for me to be released, they just did the minimum and sent me home."

The CI had a total hysterectomy with salpingo-oophorectomy and appendectomy in October 2004 prior to separation.

SCOPE OF REVIEW: The Board wishes to clarify that the scope of its review as defined in DoDI 6040.44, Enclosure 3, paragraph 5.e.(2) is limited to those conditions which were determined by the PEB to be specifically unfitting for continued military service; or, when requested by the CI, those condition(s) "identified but not determined to be unfitting by the PEB." The ratings for unfitting conditions will be reviewed in all cases. The other requested conditions (hysterectomy and appendectomy) are not within the Board's purview. Any conditions or contention not requested in this application, or otherwise outside the Board's defined scope of review, remain eligible for future consideration by the Army Board for Correction of Military Records.

RATING COMPARISON:

| Service IPEB – Dated 20041028 | | | VA (3 Mos. Pre-Separation) – All Effective Date 20041216 | | | |
|--|---------------|--------|--|-----------|--------|----------|
| Condition | Code | Rating | Condition | Code | Rating | Exam |
| Chronic Right Wrist Pain due to Malunion of Right Wrist Fracture | 5212 | 10% | Status post Right Wrist Fracture with Residual Pain and Degenerative Changes | 5215-5003 | 10% | 20040914 |
| Bilateral Bunions and Moderate Pes Planus | Not Unfitting | | Left Hallux Valgus | 5280 | 0% | 20040914 |
| ↓No Additional MEB/PEB Entries↓ | | | Right Hallux Valgus | 5280 | 0% | 20040914 |
| | | | Hypertension | 7101 | 10% | 20040914 |
| | | | Total Hysterectomy with Bilateral salpingo-oophorectomy | 7617* | 50% | STR |
| | | | 0% X 1 other / Not Service-Connected x 0 | | | 20040914 |
| Combined: 10% | | | Combined: 60%** | | | |

*7617 rated at 100% effective 20041216 for surgery and then decreased to 50% after convalescence.

** VA combined rating initially 100% based on 7617

ANALYSIS SUMMARY: The Board acknowledges the CI's contention suggesting that ratings should have been conferred for other conditions documented at the time of separation. The Board wishes to clarify that it is subject to the same laws for disability entitlements as those under which the Disability Evaluation System (DES) operates. The Disability Evaluation System (MDES) is responsible for maintaining a fit and vital fighting force. While the MDES considers all of the member's medical conditions, compensation can only be offered for those medical conditions that cut short a member's career, and then only to the degree of severity present at the time of final disposition. However the Department of Veterans Affairs (DVA), operating under a different set of laws (Title 38, United States Code), is empowered to compensate all service-connected conditions and to periodically re-evaluate said conditions for the purpose of adjusting the Veteran's disability rating should the degree of impairment vary over time.

Chronic Right Wrist Pain due to Malunion of Right Wrist Fracture. There were two goniometric range-of-motion (ROM) evaluations in evidence, with documentation of additional ratable criteria, which the Board weighed in arriving at its rating recommendation; as summarized in the chart below.

| Right(nondominant) Wrist ROM | MEB ~3 Months Pre-Separation | VA C&P ~3 Months Pre-Separation |
|------------------------------|---|--|
| Dorsiflexion (0-70°) | 50° | 30° (Pain at 15°) |
| Palmar Flexion (0-80°) | 20° | 15° (Pain at 10°) |
| Ulnar Deviation (0-45°) | 5° | 30° (Pain at 15°) |
| Radial Deviation (0-20°) | 5° | 15° (Pain at 10°) |
| Comment | Obvious deformity of right wrist with moderate tenderness to palpation over dorsum of radius and ulnar styloid; Marked decreased ROM, worse in volar range of motion; Good pulses and "no nerve signs"; ROM and grip strength measurements from OT 4 months prior to separation; Right grip strength 83% of normal, left 107%; All wrist motor strength at 5/5. | General appearance of both wrists within normal limits; ROM limited by pain; No ankylosis; Normal neurological exam. |
| §4.71a Rating | 10% | 10% |

The MEB narrative summary (NARSUM) examination was completed approximately 3 months prior to separation and included ROM and grip strength measurements recoded by occupational therapy (OT) a month prior. The CI was noted to be left-handed. The complex radial fracture of the right wrist occurred in April 2003 while the CI was deployed. She was medically evacuated to Landstuhl and then to Eisenhower Army medical Center. Although she had two or three cast changes, she remained in a cast until August 2003. At that time, her wrist was obviously deformed and ROM was limited. The wrist failed to respond to conservative

treatment and she underwent arthroscopic surgery in February 2004. An X-ray from February 2004 noted a healed fracture, as did a previous X-ray from December 2003. While her fracture had healed, she had a significant loss of radial inclination and height and there was a numb component of intraarticular fracture at the radiocarpal joint. She also had persistent dorsal and dorsoulnar wrist pain and loss of volar flexion. She was offered a surgical attempt at original anatomy i.e., distal radius osteotomy. However, she declined and underwent the lessor procedure of diagnostic and operative arthroscopy as well posterior interosseous nerve resection in an attempt to stage her arthritis as well as offer her some relief and potential for improved motion. The operative report noted extensive dorsal wrist fibrosis, synovitis, full thickness chondrosis of the distal radial cartilage, and a relatively large full thickness chondral defect on the base of the scaphoid. The partial thickness tear of the triangular fibrocartilage complex (TNCC) was also noted. The CI reported she had slightly decreased pain after the surgery but her ROM was unchanged. Her treatment after surgery was occupational therapy and nonsteroidal anti-inflammatory medication. The pertinent examination findings at the time of the NARSUM are noted in the chart above. The MEB history and physical examination was completed approximately 2 months prior to the NARSUM and it noted wrist dorsiflexion of 60 degrees and palmar flexion of 10 degrees with a normal neurological examination. The NARSUM examiner opined the CI had significant pain, tenderness, and deformity of the right wrist and significantly reduced ROM and grip strength. He noted she was unable to perform routine activities or her usual civilian vocation as a police officer.

The VA Compensation and Pension (C&P) examination was completed approximately a month after the OT ROM and grip strength measurements were recorded and a week prior to the NARSUM. It reports a similar history of the injury as the NARSUM and noted continuous wrist pain and inability to flex her wrist along with a hard time lifting heavy objects. This exam also stated the CI denied any surgery or any time lost from work. No issue with activities of daily living was reported although it was noted she would have a difficult time gardening and pushing a lawn mower. Physical examination findings are noted in the ROM chart above. X-rays of the right wrist noted mild generalized demineralization, minimal degenerative changes at the radiocarpal joints with some minimal cartilage loss. Her pain with ROM was noted to be significant.

The Board directs attention to its rating recommendation based on the above evidence. While the PEB rated the right wrist condition as 5212 base on malunion and the VA rated the right wrist condition as 5215-5003 based on painful motion IAW with VASRD §4.59, both rating schemes yield the 10% disability rating. Although the limitation of ROM of the right wrist was considered significant, it did not reach the minimal compensable level under 5215 Wrist, limitation of motion of. Neither code offers an advantage to the CI and there is no appropriate way to rate the condition higher than 10%. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication for the right wrist condition.

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 chronic right wrist pain due to malunion of right wrist fracture condition and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication. There were no other conditions within the Board's scope of review for consideration.

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

| UNFITTING CONDITION | VASRD CODE | RATING |
|--|-------------------|---------------|
| Chronic Right Wrist Pain due to Malunion of Right Wrist Fracture | 5212 | 10% |
| | COMBINED | 10% |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110914, w/atchs
Exhibit B. Service Treatment Record
Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXXXXXXXXXX, DAF
President
Physical Disability Board of Review

SFMR-RB

MEMORANDUM FOR Commander, US Army Physical Disability Agency
(TAPD-ZB / XXXXXXXX), 2900 Crystal Drive, Suite 300, Arlington, VA 22202-3557

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation for
XXXXXXXXXXXXXXXXXX, AR20120022716 (PD201100749)

I have reviewed the enclosed Department of Defense Physical Disability Board of Review (DoD PDBR) recommendation and record of proceedings pertaining to the subject individual. Under the authority of Title 10, United States Code, section 1554a, I accept the Board's recommendation and hereby deny the individual's application.

This decision is final. The individual concerned, counsel (if any), and any Members of Congress who have shown interest in this application have been notified of this decision by mail.

BY ORDER OF THE SECRETARY OF THE ARMY:

Encl

XXXXXXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
() DoD PDBR
() DVA

