RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXXXX BRANCH OF SERVICE: Army

CASE NUMBER: PD1100991 SEPARATION DATE: 20060802

BOARD DATE: 20110821

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SGT/E-5 (13B20/Artillery NCO), medically separated for left obturator neuritis, status post (s/p) gunshot wound (GSW) to the pelvis. In January 2002, the CI sustained a gunshot wound to the lower abdomen. He was treated surgically, and developed mild post-operative groin and buttock pain. This pain worsened after a deployment to Iraq. He did not respond adequately to treatment and was unable to perform within his Military Occupational Specialty (MOS) or meet physical fitness standards. The CI was issued a permanent L3 profile and underwent a Medical Evaluation Board (MEB). “Left inguinal pain secondary to gunshot wound with two retained bullet fragments in the secrum [*sic*] and abutting the left wall of the bladder” was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. Two other conditions, as identified in the rating chart below, were forwarded as medically acceptable. The PEB adjudicated the left obturator neuritis, s/p GSW in pelvis condition as unfitting, rated 0% with application of the Veterans Administration Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 0% disability rating.

CI CONTENTION: The CI’s contention is in the form of a memorandum in which he is represented by The American Legion. Excerpts below are from this memorandum. The CI states: “After reviewing the Narrative Summary (NARSUM) and Form 199 (DA 3947) findings from August 2006, the Service Member and the American Legion agree that the recommended disability percentage and final proceedings from the Physical Evaluation Board are mostly incorrect and unacceptable. Therefore, we ask that two (2) corrections be made to the Medical Evaluation Board proceeding on the interest of compliance with both DOD Instruction and U.S. Army regulations. While we realize that this may include some additional work, we feel that it is in the best interest of the soldier and the United States Army Medical Command to address these problems. 1) The veteran and the American Legion strongly feel that the diagnosis of Left Inguinal Pain Secondary to Gunshot Wound should be reexamined and include a higher disability percentage due to the severity of the condition. The bullets are still inside his body, as per medical documentation submitted. 2) The veteran and the American Legion strongly feel that the diagnosis of Mild Lower Urethral Tract Symptoms Secondary to lrration [*sic*] from Retained Bullet should be reexamined and found unfit for duty. The veteran has provided plenty of additional medical documentation from private providers and VA hospitals to prove his strenuous effects from the condition he still suffers from.” He elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

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 mild lower urethralt symptoms condition requested for consideration meets the criteria prescribed in DoDI 6040.44 for Board purview, and is accordingly addressed below. 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 the Correction of Military Records.

RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Service PEB – Dated 20060522** | | | **VA (1 Mo. After Separation) – All Effective Date 20060803** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Left Obturator Neuritis, S/P GSW in Pelvis | 8628 | 0% | Left Obturator Neuritis with Retained Fragments, S/P GSW, Left Pubic Symphysis | 8628 | 0%\* | 20060928 |
| GSW Left Pubic Symphysis (MG XV) | 5315 | 10% | 20060928 |
| Mild Lower Urethral Tract Symptoms Secondary to Irritation from Retained Bullet | Not Unfitting | | S/P Repair of Bladder Injury Due to GSW | 7517 | 20% | 20060928 |
| Left Shoulder Muscle Strain | Not Unfitting | | Left Shoulder Strain with Degenerative Changes | 5010 | 0% | 20060928 |
| ↓No Additional MEB/PEB Entries↓ | | | Thoracolumbar Strain | 5237 | 10% | 20060928 |
|  | | | Tinnitus | 6260 | 10% | 20060817 |
| Painful Scar | 7804 | 10% | 20060928 |
| 0% x 4/Not Service-Connected x 3 | | | 20060928 |
| **Combined: 0%** | | | **Combined: 50%** | | | |

\*Increased to 10% on VARD dated 20070723, effective 20060803 with code change to 8628-5010.

ANALYSIS SUMMARY:

Left Obturator Neuritis, S/P GSW in Pelvis. The CI sustained a single small caliber hand gun wound to the lower abdomen while at a restaurant in January 2002. Entrance point was immediately above the left pubis bone. At emergent surgery, a laceration to the left wall of the bladder was encountered and repaired. No other injuries to any additional genitourinary, major vascular, gastro- intestinal or neurologic structure were identified. The bullet was noted to be deep in the paraspinous muscles of the back and was appropriately left in place. Post-operatively the CI did well and deployed to Korea from 2003 to 2004. While in Korea he developed mild pain in the left groin area. The CI again deployed in 2004-2005 to Iraq where the groin pain exacerbated. CT scans of the abdomen revealed a bullet fragment deep in the psosas musculature of back and a smaller fragment abutting the bladder. Medical providers debated that the source of pain might be irritation by the fragment of the obturator nerve, the sensory innervation to the site of clinical symptoms. In January 2006, the CI reported numbness in the upper, medial left thigh, again in the area of obturator nerve innervation. Neuro-electrophysiologic studies obtained in March 2006 showed no evidence of a lumbosacral plexopathy, myopathy or generalized nerve injury. Neurology concluded that symptoms were suggestive of a mild partial injury to the obturator nerve. General surgical evaluation in February 2002 determined that removal of the bullet fragment was not indicated. Evaluation at this time by the pain clinic, noted some tenderness at the bullet entrance scar on the abdominal wall. Examination was noted to be stable with no invasive therapies indicated. X-rays and CT scans revealed no acute changes. A medical evaluation undertaken two weeks before the narrative summary (NARSUM) exam recorded 5/5 strength in the lower extremities. At the time of the MEB examination performed four months before separation, the CI reported constant, burning pain in groin and buttock that was worse with prolonged sitting, and improved with walking. He was taking no medications. On physical examination, gait was reported as normal. Tenderness was noted in the lower portion of the midline abdominal incision. Examination of the groin was normal.

At the VA Compensation and Pension (C&P) evaluation, performed 2 months after separation, the CI again reported burning pain in the groin and buttocks at a pain level of 7/10. Pain appeared and was relieved spontaneously or in response to oral medication. The CI noted he could function with medication during painful flares. On examination, gait and posture were normal. There was a muscle wound (scar site) present. Palpation of the abdominal muscle revealed no loss of deep fascia or muscle substance and no impairment of muscle tone. There were signs of lowered endurance including weak hip adduction. Muscle herniation was absent and motor strength was graded at 4/5. Range-of-motion (ROM) of the hip joint and thoracolumbar spine was normal. Decreased sensation over the anterior and posterior left thigh was recorded. The C&P examiner commented: “the muscle injury does not affect the function of the particular body part it controls.” Nine months after separation, the CI was given medical clearance for employment as a corrections officer. The Board directs attention to its rating recommendation based on the above evidence. The PEB and the VA both rated this condition under code 8628, paralysis of obturator nerve, mild to moderate, 0%. A 10% rating, the highest rating under this code IAW §4.123, is not achievable given the clinical findings, neurologic evaluation and normal nerve conduction studies. The Board considered a rating under code 5316, IAW §4.56 evaluation of muscle disability but was unable to achieve 10% moderate given the minimal scar, good functional result with normal strength, absence of muscle loss and fascial defects and normal CT imaging. This provides no benefit to the CI. The Board could define no pathway to a higher rating. 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 obturator neuritis condition.

Contended PEB Conditions. Mild lower urethral tract symptoms were adjudicated by the PEB as not unfitting. The CI developed mild GU symptoms of voiding 10 to 12 times a day and feelings of incomplete emptying of his bladder. At the time of separation bladder function studies, cystoscopy and urine analysis were normal. Symptoms improved on prostate medication. This condition was not profiled, implicated in the commander’s statement, nor judged to fail retention standards. It was reviewed by the action officer and considered by the Board. There was no indication from the record that this condition significantly interfered with satisfactory duty performance. After due deliberation in consideration of the preponderance of the evidence, the Board concluded that there was insufficient cause to recommend a change in the PEB fitness determination for the mild lower urethral tract symptoms condition and, therefore, no additional disability ratings could be recommended.

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 obturator neuritis condition, IAW VASRD §4.123a, the Board unanimously recommends no change in the PEB adjudication. In the matter of the mild lower urethral tract symptoms condition, the Board unanimously recommends no change in the PEB adjudication as not unfitting. 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:

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| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Left Obturator Neuritis, S/P GSW in Pelvis | 8628 | 0% |
| **COMBINED** | **0%** |

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20111025, 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

SFMR-RB

MEMORANDUM FOR Commander, US Army Physical Disability Agency

(TAPD-ZB / ), 2900 Crystal Drive, Suite 300, Arlington, VA 22202

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation for XXXXXXXXXXXXXXXXXXXXXXXX, AR20120015825 (PD201100991)

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 XXXXXXXXXXXXXXXXXXXXX

Deputy Assistant Secretary

(Army Review Boards)

CF:

( ) DoD PDBR

( ) DVA