

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXXXX
CASE NUMBER: PD1101131
BOARD DATE: 20120925

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20031215

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was a Reserve 1LT/0-2 (70B/Medical Service Corps, Administrative Specialist), medically separated for rheumatoid arthritis. The CI developed painful swelling in his joints during deployment to Iraq in 2003. The condition, determined to be acute rheumatoid arthritis, could not be adequately rehabilitated with treatment to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was issued a permanent L3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded no other conditions for Physical Evaluation Board (PEB) adjudication. The PEB adjudicated the rheumatoid arthritis condition as unfitting, rated 20% with application of the Veteran’s Affairs Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 20% disability rating.

CI CONTENTION: “I should have been medically retired instead. I did not know at the time that I was waiving my retirement benefits and that my VA disability money would be withheld. I would simply like to apply for Army Reserve medical retirement. I am giving my separation money back monthly anyway through my VA disability. Also, I should have been rated and additional 10% for painful scar to the left elbow. The Army did 4 surgeries on my left elbow in mistake. Also, I should have had a 10% rating for tinnitus from the Army. Although, I did not know what the ringing was at that time. I just dealt with it.”

SCOPE OF REVIEW: The Board wishes to clarify that the scope of its review as defined in the Department of Defense Instruction (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 painful scar of left elbow and tinnitus conditions contended by the CI were not addressed by the PEB and are, therefore, 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 20031103			VA (11 Mos. Post-Separation) – All Effective Date 20031220			
Condition	Code	Rating	Condition	Code	Rating	Exam
Rheumatoid Arthritis	5002	20%	Reactive Rheumatoid Arthritis, Both Knees, LS Spine, Left Elbow, Both Ankles	5002	20%	20041001
↓No Additional MEB/PEB Entries↓			↓No Additional VA Entries			
Combined: 20%			Combined: 20%			

ANALYSIS SUMMARY: The Disability Evaluation System (DES) is responsible for maintaining a fit and vital fighting force. While the DES considers all of the service member's medical conditions, compensation can only be offered for those medical conditions that cut short member's career, and then only to the degree of severity present at the time of final disposition. The DES has neither the role nor the authority to compensate members for anticipated future severity or potential complications of conditions resulting in medical separation nor for conditions determined to be service connected by the Department of Veteran Affairs (DVA) but not determined to be unfitting by the PEB. However the 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 his degree of impairment vary over time. 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. 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 DES improprieties in the processing of his case or the quality of care rendered.

Rheumatoid Arthritis Condition. The CI developed a febrile illness with gastrointestinal symptoms while in Iraq in April 2003. At Landstuhl Regional Medical Center the diagnosis of acute rheumatoid arthritis was confirmed and disease specific medication, infliximab, was instituted on 7 May 2003 with immediate improvement in symptoms. At the time of CONUS return, 14 May 2003, the CI had full range-of-motion (ROM) of the cervical spine and shoulders, some swelling of the right second digit, slight limitation of ROM of the left hip, swelling of the left knee and both ankles and midfeet. By 28 May 2003 symptoms had improved, but persisted in the elbow, ankle and finger. With continued treatment, the condition improved further. Evaluation by the internal medicine service 9 September 2003, 3 months prior to separation, the CI reported only that his knees ached a bit. Examination revealed no swelling of any joint and no tenderness in the spine. At the MEB/narrative summary (NARSUM) evaluation, performed 20 November 2003, one month prior to separation, the CI reported minimal intermittent pain in many joints in the morning, improving with movement throughout the course of the day. No specific joint was identified. On physical examination motor strength, reflex and sensation in hands, arms and legs were normal. Goniometric ROM of the neck, shoulders, elbows, wrists, hand, hips, knees and ankles was normal. No mention of swelling or painful ROM was recorded. On evaluation by the rheumatology service performed 9 February 2004, two months after separation, swelling was absent from all joints, with normal ROM and strength throughout with no back tenderness. Condition was described as asymptomatic and quiescent. At the VA Compensation and Pension (C&P) examination, performed October 2004, approximately 10 months after separation, the CI reported stiff joints with occasional flare-ups of pain, especially knees and back in the early morning. He had received no infliximab treatment for approximately 10 months. The CI was working as a real estate agent. On examination gait was normal with no effusion or swelling in any joint. ROM was reported as normal throughout and lower back tenderness was absent. No reference to painful ROM is recorded. The condition was noted to be 'clinically quiescent.'

The Board directs attention to its rating recommendation based on the above evidence. The PEB and VA both rated the condition 20% under the same code, 5002, rheumatoid arthritis. A higher rating of 40% would require incapacitating episodes three or more times a year. The Board unanimously agreed that preponderance of evidence in record, as discussed above, documents excellent response of the rheumatoid arthritis condition to medication resulting in a

quiescent clinical status at the time of separation with no acute exacerbations or flares since initiation of the treatment in May 2003. The Board, therefore, unanimously agreed that a higher rating under 5002 was not appropriate. The Board agreed that rheumatoid arthritis was rated by both the PEB and VA as a systemic condition code 5002 but, that IAW §4.71a, involved joints may be individually rated. Individual ratings may be combined for final rating, but, not added with diagnostic code 5002. Findings such as limitation of ROM will be rated under the appropriate diagnostic codes for the specific joints involved. Where, however, the limitation of motion of the specific joint or joints involved is non compensable under these codes, a rating of 10% is appropriate for each such major joint or group of minor joints affected by functional limitation of motion. Limitation of motion must be objectively confirmed by findings such as swelling, muscle spasm, or satisfactory evidence of painful motion. The Board opined symptomatic joints involved in this condition were left elbow, thoracolumbar back, both knees, both ankles and left second hand digit. The Board agreed that the preponderance of proximate clinical evidence, discussed afore, documents normal ROM, absence of joint pain and painful motion, swelling and effusions of all joints under concern at the time separation. The Board notes a report on the MEB evaluation of intermittent morning joint stiffness improving with activity, without definition of a specific joint, and opines this not to achieve a level for rating under §4.71a or §4.59. The Board notes the CI to specifically report early morning back pain on the C&P exam, 10 months after separation, but concluded this to be minor given the normal back exam and related to the interval between infliximab treatments. The Board unanimously agreed that no higher rating for the condition could be achieved through individual joint ratings. The Board was unable to find any pathway to a higher rating given any applicable VASRD code. 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 rheumatoid arthritis 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 rheumatoid arthritis 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
Rheumatoid Arthritis	5002	20%
	COMBINED	20%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20111207, 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
XXXXXXXXXXXXXXXXXXXX, AR20120018081 (PD201101131)

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

XXXXXXXXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
() DoD PDBR
() DVA