

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX  
CASE NUMBER: PD1200349  
BOARD DATE: 20121119

BRANCH OF SERVICE: ARMY  
SEPARATION DATE: 20020417

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**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SSG/E-6 (14J30/Early Warning System Operator), medically separated for herniated nucleus pulposus (HNP) C5-6, C6-7, right shoulder subacromial impingement syndrome and retropatellar pain syndrome (RPPS) left knee. Despite conservative management including medications, physical therapy and duty limitations, the neck, right shoulder and left knee conditions did not improve adequately to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was issued a permanent U2/L3 profile and referred for a Medical Evaluation Board (MEB). The MEB determined the cervical HNP at C5-6 and C6-7, right shoulder subacromial impingement, chronic and left knee pain to be medically unacceptable and forwarded these conditions to the Physical Evaluation Board (PEB). No other conditions were forwarded for PEB adjudication. The PEB adjudicated the HNP C5-6 and C6-7, right shoulder subacromial impingement syndrome and the RPPS left knee conditions as unfitting, rated 10%, 0% and 0% respectively, with application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD) for the first two conditions and the US Army Physical Disability Agency (USAPDA) pain policy for the knee. The CI made no appeals and was medically separated with a 10% disability rating.

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**CI CONTENTION:** "The Medical Board proceedings dated 18 DEC 2001, and PEB proceedings dated 15 JAN 02 both stated that my diagnosis of Cervical Herniated Nucleus Pulposus at C5-C6 and C6-C7, Right shoulder impingement syndrome, and left knee retropatellar pain syndrome all listed on my physical profile limited me from performing my duties. The PEB proceedings only rated my neck injury at 10%, however all three conditions prevented me from performing certain duties. According to my profiles over the years the shoulder injury (which occurred in 1995) resulted in me not being able to do pushups, and lift heavy objects (50lbs or less), the neck problem (occurred in 2000) prevented me further from carrying heavy objects (20 lbs or less), or from wearing a helmet. My knee injury (incurred in 1999) prevented me from running and navigating rough or uneven surfaces. All of these things which occurred after my participation in Operation Desert Shield/Storm contributed to my not being able to perform the duties of my rank, yet only one condition was considered for disability. When I received the results of the MED/PEDB boards I was told by personnel (S1) and my doctor (Ortho) that "nobody wins appeals, and that I should just accept the recommendation and "take the money" referring to the severance pay, otherwise I would probably be chaptered for not being able to perform my job and would get nothing. The VA doctors using the same rating codes and same examinations rated me as 30% as each of these disabilities contribute to my overall ability to my overall ability to do the job. While discussing my records with a Veterans Affairs officer in March 2012, he stated that I should send my records to this board as the laws have changed, and I probably should have been medically retired, instead of medically discharged. In the years since my discharge, the C5-C6 C6-C7 herniations have become much worse, and now affect my balance, create dizziness, and numbness in all of my limbs, and my breathing, and I am being evaluated for further disability".

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**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 herniated nucleus pulposus (HNP) C5-6, C6-7, right shoulder subacromial impingement syndrome and RPPS left knee conditions, which are the rated conditions and are requested for consideration meet the criteria prescribed in DoDI 6040.44 for Board purview; and, are 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 Correction of Military Records.

**RATING COMPARISON:**

Service PEB – Dated 20020115			VA (VAR Dtd 6 Days Post-Separation) – All Effective Date 20020418			
Condition	Code	Rating	Condition	Code	Rating	Exam
HNP C5-6,C6-7	5299-5295	10%	HNP, Cervical SpineC5-6,C6-7	5293	10%	STR
R Shoulder Subacromial Impingement Syndrome	5299-5003	0%	Subacromial Impingement Syndrome, R Shoulder	5299-5203	10%	STR
RPPS Left Knee	5009-5003	0%	RPPS Left Knee	5299-5260	10%	STR
<b>Combined: 10%</b>			<b>Combined: 30%</b>			

**ANALYSIS SUMMARY:**

Herniated Nucleus Pulposus C5-6,C6-7 Condition. The CI was first seen in 1997 for neck pain when he was evaluated for a two day history of pain after “wrenching” his neck. He was treated for cervical strain with apparent resolution. He was next seen on 25 January 2000 for his right shoulder and noted to have paresthesias in the right C5 distribution. A magnetic resonance imaging (MRI) exam performed on 17 February 2000 revealed a small right paracentral disc bulge at C5-6 with mild effacement of the right nerve root. He was noted to have normal range-of-motion (ROM) of the cervical spine at a physical medicine evaluation on 24 May 2000. He was next seen on 29 May 2001 and reported an 8 year history of neck pain. A compression test was negative for nerve root irritation and there was no tenderness to palpation. Strength and reflexes were noted as normal. At the MEB examination performed on 16 August 2001, the CI reported central neck pain. The MEB physical examiner made no comment on the neck. The narrative summary (NARSUM) was dictated on 18 September 2001, 7 months prior to separation. The CI reported that the pain came on suddenly and that it was not secondary to trauma. On examination, he had a positive Spurling’s maneuver, indicative of nerve root irritation, with decreased sensation in a C6 distribution. No comments were made on strength, reflexes or atrophy. No incapacitating episodes were documented. There was one goniometric ROM evaluation in evidence dated 14 February 2002. It showed flexion of 60 degrees, 15 degrees greater than normal, but the combined ROM was limited to 255 degrees, 85 degrees less than the 340 degree normal value. There was no VA Compensation and Pension (C&P) exam. The Board directs attention to its rating recommendation based on the above evidence. The PEB and VA both rated the condition at 10%, but chose different coding options. The PEB used code 5299-5295, analogous to lumbosacral strain, rating for pain on motion whereas the VA utilized code 5293, intervertebral disc syndrome, and rated for mild symptoms. The Board noted that neither code is still used and that the case was adjudicated under the old spine rules. However, under the new spine rules, the ROM still would only support a 10% 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 neck condition.

Right Shoulder Subacromial Impingement Syndrome Condition. The CI was first seen for right upper extremity pain in 1995 from doing pushups. He was found to have a winged scapula. An electromyogram and nerve conduction velocity (EMG and NCV) examination was normal. A

neurologist later determined this to be probably a congenital condition. He was seen several more times for the right shoulder in 1995 and also noted to have an impingement syndrome. He was next seen on 29 December 1999 for recurrent pain. A second EMG performed on 25 January 2000 was positive for mild chronic denervation of the right serratus anterior muscle thought to be consistent with an old palsy of the right long thoracic nerve. An MRI of the neck was discussed above. At a 24 May 2000 appointment, the right scapular winging was noted while doing pushups, but not with shoulder flexion or abduction. There are no further notes in evidence until the CI entered the Disability Evaluation System (DES) process. At the MEB examination on 16 August 2001, the CI reported right shoulder pain. The MEB physical examiner noted the diagnoses of right shoulder impingement and winged scapula. The narrative summary (NARSUM) was dictated on 18 September 2001, 7 months prior to separation. The CI reported that the pain came on suddenly and that it was not secondary to trauma. He was in chronic pain. On examination, he had positive signs of impingement (pain with provocative maneuvers) with normal ROM. No comment was made on strength, reflexes or atrophy. No incapacitating episodes were documented. The commander noted that he was unable to do heavy lifting or climbing. The Board noted that the CI was given a U2 profile and was restricted from lifting over 20 pounds. However, the Board also noted that the CI had first had lifting restrictions issued when solely profiled for his left knee condition and that he continued to be profiled for the knee until separation as L3. There was one goniometric ROM evaluation in evidence dated 14 February 2002. All values were normal, but there was pain at the end of motion. There was no C&P exam. The only X-ray in evidence was from February 1995; it was normal. The Board directs attention to its rating recommendation based on the above evidence. The PEB rated the condition at 0%, coding the condition analogously to degenerative arthritis, 5299-5003. The VA utilized code 5299-5203, impairment of the scapula, and rated the condition at 10%. The Board considered that the CI was issued a U2 profile, but also that there is no record that he sought treatment for the shoulder the last two years on active duty. The lifting restriction had been in place for the knee for several years. Impingement syndrome is a condition which typically responds well to conservative management including medications, physical therapy and injections. While testing for impingement was positive, the ROM was normal on multiple examinations and painful only at the end of rotation. Weakness was not documented. X-rays were normal. The Board considered the applicability of VASRD §4.59 (painful motion). The intent of this paragraph is to award the minimum compensable rating for functional impairment from pain. The record does not support that shoulder pain resulted in a functional impairment in addition to that from the neck and knee conditions. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt) and 4.40 (loss of function) the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication for the right shoulder condition.

Retropatellar Pain Syndrome Left Knee Condition. The CI was first seen for anterior knee pain on 21 December 2000. He complained of pain from climbing and running. On examination, he had crepitus, but the examination was otherwise unremarkable and ROM normal. He was referred to physical therapy for his knee pain and was noted to have resolving RPPS over the course of the next 5 months. The ROM was documented as full on the initial appointment and not documented thereafter. At the MEB examination on 16 August 2001, the CI reported left knee pain for the past year. The MEB physical examiner noted the diagnosis of left knee RPPS. The NARSUM dictated on 18 September 2001, 7 months prior to separation. The CI reported that the pain had not responded well to treatment. On examination, he had positive retropatellar grind with ROM measured at 135 degrees flexion, reduced five degrees from the VA normal. The examiner did not comment if this was a limitation in motion for this individual. Motion was not documented as painful. There was no effusion, joint line tenderness or ligamentous laxity. No comment was made on strength, reflexes or atrophy. There had been gastrocnemius atrophy present after an injury two years earlier on the physical therapy examinations from one year prior to separation, though. No incapacitating episodes were

documented. The commander noted that he was unable to do heavy lifting or climbing. The Board noted that the CI was given a L3 profile which restricted him from running and jumping. There was no (C&P exam. No X-rays were in evidence. The Board directs attention to its rating recommendation based on the above evidence. The PEB coded the condition at 5099-5003, analogous to degenerative arthritis, and rated it at 0% using the USAPDA pain policy. The VA coded the knee analogously to limitation in flexion, coded 5299-5260, and rated it at 10%. The Board noted that RPPS is treated as analogous to 5003 in the current VASRD. There were no X-rays in evidence. Examination of the knee was unremarkable other than the positive patellar grind consistent with the RPPS diagnosis. The ROM was essentially normal on the NARSUM examination and, when documented, normal on other examinations. Painful motion was not documented. However, the Board noted the presence of the L3 profile and long standing duty limitations for the knee condition as well as the continued treatment in the year prior to separation. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt) and 4.59 (painful motion) the Board recommends a disability rating of 10% for the left knee 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. As discussed above, PEB reliance the left knee was operant in this case and the condition was adjudicated independently of that policy by the Board. In the matter of the neck and shoulder conditions and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication. In the matter of the left knee condition, the Board unanimously recommends a disability rating of 10%, coded 5299-5003 IAW VASRD §4.71a. There were no other conditions within the Board’s scope of review for consideration.

**RECOMMENDATION:** The Board recommends that the CI’s prior determination be modified as follows, effective as of the date of his prior medical separation:

<b>UNFITTING CONDITION</b>	<b>VASRD CODE</b>	<b>RATING</b>
HNP C5-6, C6-7 Without Neural Impingement or Radiculopathy	5299-5295	10%
Right Shoulder Subacromial Impingement	5299-5003	0%
Retropatellar Pain Syndrome Left Knee	5099-5003	10%
	<b>COMBINED</b>	<b>20%</b>

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120411, 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 / XXXXXXXXXX), 2900 Crystal Drive, Suite 300, Arlington, VA 22202-3557

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation  
for XXXXXXXXXXXX, AR20130000268 (PD201200349)

1. I have reviewed the enclosed Department of Defense Physical Disability Board of Review (DoD PDDBR) 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 to modify the individual's disability rating to 20% without recharacterization of the individual's separation. This decision is final.
2. I direct that all the Department of the Army records of the individual concerned be corrected accordingly no later than 120 days from the date of this memorandum.
3. I request that a copy of the corrections and any related correspondence be provided to the individual concerned, counsel (if any), any Members of Congress who have shown interest, and to the Army Review Boards Agency with a copy of this memorandum without enclosures.

BY ORDER OF THE SECRETARY OF THE ARMY:

Encl

XXXXXXXXXXXXX  
Deputy Assistant Secretary  
(Army Review Boards)

CF:  
( ) DoD PDDBR  
( ) DVA