

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXX  
CASE NUMBER: PD1200388  
BOARD DATE: 20121211

BRANCH OF SERVICE: ARMY  
SEPARATION DATE: 20040921

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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 SGT/E-5 (63J20/Quartermaster and Chemical Equipment Repairer) medically separated for bilateral knee pain with early degenerative osteoarthritis (OA). The bilateral knee pain did not improve adequately 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 determined that the bilateral knees early degenerative joint disease (DJD) did not meet retention standards and forwarded this condition to the Physical Evaluation Board (PEB). Degenerative disc disease (DDD) lumbar spine, spondylosis cervical spine, residual shoulder pain status/post (s/p) subacromial decompression of both shoulders, right eye corneal scar, hand arthralgias, varicocele, labile blood pressure, and onychomycosis, were forwarded by the MEB as meeting retention standards. The PEB adjudicated the bilateral knee pain with early degenerative OA as unfitting, rated 10%, with probable application of the US Army Physical Disability Agency (USAPDA) pain policy. The remaining conditions were determined to be not unfitting. The CI made no appeals, and was medically separated with a 10% disability rating.

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**CI CONTENTION:** "Was told by the med board when I was discharged from the Army that VA would pickup all of these items on their ratings. The med board told me that they could only med board me out for what was on my P-3, that was my knee. It is inaccurate because, 20050110-1st VA award of 60% overall rating. I was not rated for my mild degenerative disc disease L5-S-1 10%, subacromial decompression left shoulder 10% and right shoulder 10%, cervical myofascial strain 20%, bilateral hand 0%, central corneal scar right eye 0%, gastritis 0%, bilateral small hydroceles 0%, onychomycosis right big toe 0%, degenerative arthritis left knee 10%, degenerative arthritis right knee 10%, labile blood pressure denied, and residuals from antimalarial medication denied."

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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 listed unfitting conditions, as requested for consideration, meet the criteria prescribed in DoDI 6040.44 for Board purview and are addressed below, in addition to a review of the ratings for the unfitting knee pain. The remaining conditions rated by the VA at separation and listed on the DA Form 294 application 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.

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**RATING COMPARISON:**

Service FPEB – Dated 20040522			VA (19 Days Pre-Separation) – All Effective Date 20040922			
Condition	Code	Rating	Condition	Code	Rating	Exam
Bilateral knee pain w/early degenerative OA	5003	10%	R/Knee, RPPS	5019-5260	10%*	20040903
DDD lumbar spine	Not Unfitting		L/Knee Degenerative Arthritis	5010-5260	10%*	20040903
Spondylosis cervical spine	Not Unfitting		Mild DDD L5-S1, L-Spine	5243%	10%**	20040903
Bilateral shoulder pain s/p decompression	Not Unfitting		Cervical myofascial strain	5237	20%***	20040903
Right eye corneal scar	Not Unfitting		L Subacromial decompression	5201	10%^	20040903
Hand arthralgias	Not Unfitting		R Subacromial decompression	5201	10%^	20040903
Varicocele	Not Unfitting		Small central corneal scar, right	6099-6001	0%	20040820
Labile blood pressure	Not Unfitting		Bil hand overuse syndrome	5099-5003	0%^^^	20040903
Onychomycosis	Not Unfitting		Bil small hydroceles	7599-7525	0%	20040903
↓No Additional MEB/PEB Entries↓			Not Service-Connected			20040903
<b>Combined: 10%</b>			Onychomycosis, R big toenail	7813	0%	20040903
			0% X 5 / Not Service-Connected x 2 (At separation)			
			<b>Combined: 60%#</b>			

\*20% from 20060510, 50% from 200804522. \*\*40% from 20060510. \*\*\*30% from 20080522. ^20% from 20060510, 30% from 200804522. ^^30% from 20060510. ^^10% from 20050413; # 90% from 20060510, 100% from 200804522.

**ANALYSIS SUMMARY:** The Disability Evaluation System (DES) is responsible for maintaining a fit and vital fighting force. While the DES 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. 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 Veterans 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 utilizes DVA evidence proximal to separation in arriving at its recommendations; and, DoDI 6040.44 defines a 12-month interval for special consideration to post-separation evidence. The Board's authority as defined in DoDI 6044.40, however, resides in evaluating the fairness of DES fitness determinations and rating decisions for disability at the time of separation. Post-separation evidence therefore is probative only to the extent that it reasonably reflects the disability and fitness implications 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.

**Bilateral knee pain with early degenerative osteoarthritis.** There were three 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.

Knee ROM Degrees	PT ~20 Mo. Pre-Sep		MEB ~7 Mo. Pre-Sep		VA C&P <1 Mo. Pre-Sep	
	Left	Right	Left	Right	Left	Right
Flexion (140 Normal)	130	130	130	130	140	140
Extension (0 Normal)	0	0	0	0	0	0
Comment					Flexion decreased to 130 after repetition	
§4.71a Rating	10%	10%	10%	10%	10%	10%

The CI has a history of left greater than right knee pain since 1993 when he was diagnosed with retropatellar pain syndrome (RPPS) after overuse. He was seen periodically over the next 9 years and treated with duty limitations, physical therapy (PT) and medications. He was seen in orthopedics on 2 December 2002 and diagnosed with anterior knee pain. Flexion was slightly reduced at 130 degrees, but testing for ligamentous instability and meniscal irritation was negative. X-rays of both knees were normal. He was seen again in orthopedics on 29 January 2003 with an unchanged examination; the diagnosis of RPPS was confirmed. Magnetic resonance imaging (MRI) on 24 March 2003 showed two subtle subchondral cysts consistent with degenerative joint disease (DJD). A possible tear of the posterior horn of the medial meniscus was also noted. He was next seen on 19 September 2003, a year prior to separation, in orthopedics and reclassification was recommended. The MOS Medical Retention Board (MMRB) recommended MEB. At the MEB exam, the CI reported bilateral knee pain. The MEB examiner noted a positive patellar compression test on the right and positive patellar grind on the left. No laxity was noted; the ROM was symmetric at 130 degrees of flexion, slightly reduced from the VA normal of 140 degrees. The narrative summary (NARSUM) was dictated on 4 May 2004, 4 months prior to separation. He reported constant bilateral knee pain and swelling aggravated by activity including walking more than three miles. It was noted that he had been evaluated several times for generalized arthralgias without a diagnosis. He was noted to be stable and to have early DJD of the knees that fell below retention standards. At the VA Compensation and Pension (C&P) examination on 3 September 2004, 3 weeks prior to separation, the CI reported that he could walk about a mile before the onset of pain and that there were no impact activities permitted. Posture and gait were normal. On imaging, the right knee X-ray was normal and left showed early DJD. Motor function was normal and tests for ligamentous instability and meniscal injury were negative. He was thought to have early left knee DJD and right knee RPPS. The Board directs attention to its rating recommendation based on the above evidence. The PEB coded the bilateral knee pain as 5003, degenerative arthritis, and rated it at 10%. The VA rated each knee separately at 10% and coded them as 5019-5260 and 5010-5260 for the right and left knees, respectively. (5010 – traumatic arthritis; 5019 – bursitis; 5260 – limitation of flexion). The Board noted that the commander cited both knees as impairing duty, that both were profiled and that the PEB determined bilateral knee pain to be unfitting. Accordingly, the Board determined it appropriate to rate each separately. The Board considered the different coding options available for the knee conditions; none offered a higher rating than the use of the PEB code 5003 for each knee and a rating of 10% for painful, limited motion. 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% each knee for the bilateral knee pain condition, retaining the PEB code of 5003. 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 bilateral knee condition.

Contended PEB Conditions. The contended conditions adjudicated as not unfitting by the PEB and eligible for Board consideration were DDD lumbar spine, spondylosis cervical spine, residual shoulder pain s/p subacromial decompression of both shoulders, right eye corneal scar, hand arthralgias, varicocele, labile blood pressure, and onychomycosis. The Board's first charge with respect to these conditions is an assessment of the appropriateness of the PEB's fitness adjudications. The Board's threshold for countering fitness determinations is higher than the VASRD §4.3 (reasonable doubt) standard used for its rating recommendations, but remains adherent to the DoDI 6040.44 "fair and equitable" standard. The CI had left and right subacromial decompressions in the year prior to separation. At the 31 March 2004 orthopedic follow-up, he was noted to be recovering well. The CI was last seen specifically for the neck and back conditions 11 months prior to separation. There was no evidence that the corneal scar impaired duty; vision remained normal other than a refractive shift seen in both eyes. There was no diagnosis for the hand pain; the CI was seen for the varicocele 6 years prior to separation; the hypertension was mild and did not require treatment; there is no record that

the CI was seen for the onychomycosis while on active duty. None of these conditions were implicated in the commander's statement and none were judged to fail retention standards by the MEB. The neck was given a P2 profile a year prior to separation which expired 10 months prior to separation. The shoulders were profiled as U3 11 months prior to separation and this profile expired 8 months prior to separation. All conditions were reviewed by the action officer and considered by the Board. There was no indication from the record that any of these conditions 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 any of the contended conditions; therefore, no additional disability ratings can 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. As discussed above, probable PEB reliance on the USAPDA pain policy for rating the knees was operant in this case and the condition was adjudicated independently of that policy by the Board. In the matter of the left and right knee pain conditions, the Board unanimously recommends a disability rating of 10% for each knee, coded 5003 IAW VASRD §4.71a. In the matter of the contended DDD lumbar spine, spondylosis cervical spine, residual shoulder pain status/post subacromial decompression of the shoulders, right eye corneal scar, hand arthralgias, varicocele, labile blood pressure, and onychomycosis conditions, the Board unanimously recommends no change from the PEB determinations as not unfitting. 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>
Left Knee Pain With Early Degenerative Osteoarthritis	5003	10%
Right Knee Pain From RPPS	5003	10%
<b>COMBINED (w/ BLF)</b>		<b>20%</b>

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120423, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXXXXXXXX, DAF  
 President  
 Physical Disability Board of Review

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation  
for XXXXXXXXXXX, AR2013000095 (PD201200388)

1. I have reviewed the enclosed Department of Defense Physical Disability Board of Review (DoD PD BR) 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 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

XXXXXXXXXXXX  
Deputy Assistant Secretary  
(Army Review Boards)

CF:  
( ) DoD PD BR  
( ) DVA