

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXXXX
CASE NUMBER: PD1200447
BOARD DATE: 20121214

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20020502

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (88M10/Motor Transport Operator), medically separated for persistent right shoulder pain, status post (s/p) Weaver-Dunn procedure, with excision of portion of the distal clavicle. The CI's right shoulder was injured when the tailgate of a five-ton truck fell on it in causing a Class III acromioclavicular (AC) joint separation. A modified Weaver Dunn procedure was performed in November 1999 using a screw to stabilize the distal clavicle. The screw was surgically removed in January 2000. Despite extensive physical therapy, nonsteroidal anti-inflammatory medications, and subacromial steroid injection his symptoms continued without relief. The right shoulder condition did not improve and the CI remained unable to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was issued a permanent U3 profile and initially underwent an MOS Medical Retention Board (MMRB) but was then referred for a Medical Evaluation Board (MEB). Left knee: episodic retropatellar pain syndrome, intermittent low back pain, and folliculitis conditions, identified in the rating chart below, were also identified and forwarded by the MEB as meeting retention standards. The Physical Evaluation Board (PEB) adjudicated the persistent right shoulder pain, s/p Weaver-Dunn procedure condition as unfitting, rated 0%, with application of the US Army Physical Disability Agency (USAPDA) pain policy. The remaining conditions were determined to be not unfitting and therefore not ratable. The CI made no appeals, and he was medically separated with a 0% disability rating.

CI CONTENTION: "I have had two surgeries on my right shoulder causing numbness in my arm, neck, and hand including loss of feeling. Have been diagnosed with PTSD through the VA. Dislocated my left shoulder in basic training and still continues to affect me daily. Have to deal with tinnitus on a daily basis as well. I have since had to give up many of the hobbies I was able to do before my right arm has gotten to a point that I am always on medication which in turn my wife and I have seen a dramatic drop in my health. I have no help from VA doctors, because all their cures seem to be give him more meds. Prior to the above stated, I have not incurred any problems until I was in the military when it all started or happened."

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. Although the Board will review the ratings for the unfitting condition, none of the other conditions requested for consideration (PTSD, left shoulder, and tinnitus) meet the criteria prescribed in DoDI 6040.44 for Board 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 20020313			VA (~2 Mos. Post-Separation) – All Effective Date 20020506			
Condition	Code	Rating	Condition	Code	Rating	Exam
Persistent Right Shoulder Pain S/P Weaver-Dunn Procedure	5099-5003	0%	S/P Weaver Dunn Right Shoulder Repair	5299-5201	20%	20020626
Left Knee Episodic RPS	Not Unfitting		Patellalgia Left Knee	5299-5257	NSC	20020626
Low Back Pain	Not Unfitting		Low Back Pain	5299-5292	NSC	20020626
Folliculitis	Not Unfitting		Folliculitis	7899-7806	0%	20020626
↓No Additional MEB/PEB Entries↓			0% x 2 / Not Service-Connected x 8 total			20020626
Combined: 0%			Combined: 20%			

ANALYSIS SUMMARY: The Board’s authority as defined in DoDI 6040.44, resides in evaluating the fairness of DES fitness determinations and rating decisions for disability at the time of separation. The Board utilizes VA 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. Post-separation evidence is probative only to the extent that it reasonably reflects the disability and fitness implications at the time of separation.

Persistent Right Shoulder Pain, Status Post Weaver-Dunn Procedure, with Excision of Portion of the Distal Clavicle Condition. 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.

Right Shoulder ROM	Ortho ~2.5 Mo. Pre-Sep	NARSUM ~2 Mo. Pre-Sep	VA C&P ~2 Mo. Post-Sep
Flexion (0-180°)	160°	160°	130°
Abduction (0-180°)	150°	125°	130°
Comments	Well-healed incision; markedly tender over distal clavicle; negative piano key sign; normal subscapular push off test; marked crepitus with motion; sensation intact in all dermatomes; reflexes 2+ and equal bilateral upper extremities; motor 5/5 with breakaway weakness in right upper extremity.	Tenderness to pressure over the surgical scar, distal clavicle, and acromion.	Weakness in the right shoulder; no sensory defects, reflexes normal
§4.71a Rating	20%	20%	20%

In February 2002, approximately 2 months prior to separation, the same examiner completed both the MEB examination recorded on a DD Form 2808 and a MEB narrative summary (NARSUM): the physical findings are recorded in the center column of the ROM chart above. X-rays of the right shoulder noted heterotopic ossification over the distal clavicle and calcification over the conoid and trapezoid ligaments. At the VA Compensation and Pension (C&P) exam completed approximately 2 months after separation, the CI reported decreased strength in his right hand, his dominant side. However, no motor strength evaluation was documented.

The Board directs attention to its rating recommendation based on the above evidence. Both examinations and the C&P examination document pain-limited motion of the right shoulder at a non-compensable level. The PEB rated the condition analogous to VASRD code 5003, degenerative arthritis and assigned a 0% rating based on the USAPDA pain rule. The VA rated the condition analogous to VASRD code 5201, Arm, limitation of motion of and applied the minimal compensable rating for this joint based on pain-limited motion and IAW VASRD §4.59 painful motion. The CI had pain-limited motion of his right shoulder as a residual disability after surgical repair of his AC joint separation. He did not have arthritis. VASRD code 5203 for clavicle or scapula, impairment of, more accurately depicts his actual disability and the Board

recommends a disability rating using code 5203. A 10% rating is warranted based on malunion of the AC joint on the dominant side. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a disability rating of 10% for the persistent right shoulder pain 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 on the USAPDA pain policy for rating the persistent right shoulder pain condition was operant in this case and the condition was adjudicated independently of that policy by the Board. In the matter of the persistent right shoulder pain condition, the Board unanimously recommends a disability rating of 10%, coded 5203 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:

UNFITTING CONDITION	VASRD CODE	RATING
Persistent Right Shoulder Pain	5203	10%
	COMBINED	10%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120510, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans’ Affairs Treatment Record

XXXXXXXXXXXXXXXXXXXX, DAF
President
Physical Disability Board of Review

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation
for XXXXXXXXXXXXXXXX, AR2013000093 (PD201200447)

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 10% 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 PDBR
 DVA