

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX
CASE NUMBER: PD1200654
BOARD DATE: 20121115

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20031001

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SGT/E-5 (68S/Armament Avionics Repair) medically separated for a chronic left ankle pain condition. He injured his ankle in 1998, and was eventually diagnosed with a traumatic bone fusion. He subsequently underwent unsuccessful surgical intervention; and, the joint could not be adequately rehabilitated to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was consequently issued a permanent L3 profile and referred for a Medical Evaluation Board (MEB). The ankle condition was forwarded to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. No other conditions were submitted by the MEB. The PEB adjudicated the chronic left ankle pain condition as unfitting, rated 10%, citing criteria of the Veterans Administration Schedule for Rating Disabilities (VASRD) and AR 635-40. The CI made no appeals, and was medically separated with 10% disability rating.

CI CONTENTION: The application does not elaborate any specific comments or requests.

SCOPE OF REVIEW: The Board wishes to clarify that the scope of its review as defined in 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 rating for the unfitting chronic left ankle pain condition is 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 20030630			VA (1 Mo. Post-Separation) – Effective 20031002			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Left Ankle Pain...	5010	10%	Surgical Residuals, Left Ankle	5010-5271	20%	20031107
No Additional MEB/PEB Entries			Not Service Connected x 2			20031107
Combined: 10%			Combined: 20%			

ANALYSIS SUMMARY:

Left Ankle Condition. The CI injured his left ankle in July 1998 on assignment to Korea. It was run over by a heavy piece of towed equipment on the flight line; and, was initially managed as a ligament injury after a negative X-ray. His pain worsened and serial imaging ultimately confirmed a traumatic fibrous coalition of the talus to the calcaneus. In September 2002 he underwent arthroscopic debridement in an attempt to free adhesions and decompress the joint. Post-operatively, however, the pain worsened. Radiographs at that time revealed

degenerative changes at the talocalcaneal joint, but no evidence of complete coalition. A further trial of physical therapy (PT) and conservative measures provided no pain relief or functional improvement, and the MEB was initiated. The narrative summary (NARSUM) noted constant pain rated 2-3/10, exacerbated to 8-9/10 with “prolonged activity or aggressive physical activity”; and, an inability to run more than 10-15 steps. It was further noted that with prolonged walking the CI was forced to assume an awkward foot position to minimize his ankle pain, although routine gait was normal. The physical exam noted posterior circumferential tenderness of the talocalcaneal joint and 5/5 motor strength. The VA Compensation and Pension (C&P) examiner noted constant pain variable at 3-9/10 with an inability to tolerate walking further than a half mile. The VA physical exam noted a “marked decrease in laxity” and “coordination markedly diminished” with DeLuca provocation. The goniometric range-of-motion (ROM) evaluations in evidence which the Board weighed in arriving at its rating recommendation are summarized in the chart below.

Left Ankle ROM	MEB PT ~11 Mos. Pre-Sep	NARSUM ~3 Mos. Pre-Sep	VA C&P ~1 Mo. Post-Sep
Dorsiflexion (20° Normal)	35°	10°	20°
Plantar Flexion (45°)	35°	40°	20°

The Board directs attention to its rating recommendation based on the above evidence. The PEB’s 10% rating under 5010 (traumatic arthritis, defaulting to 5003 criteria) cited “with loss of joint motion”. The VA’s coding defaulted to criteria of 5271 (limited motion), citing ‘marked’ limitation to achieve the maximum 20% rating under the code. In the absence of ankylosis (frozen joint) or deformity, neither of which was in evidence, there is no available joint code under VASRD §4.71a that would achieve a rating higher than the VA’s approach. The only alternate rating under 5271 is 10% for ‘moderate’ limitation. Members deliberated if a recommendation for a 20% rating under 5271 could be supported. Although the ROM measurements in evidence did not suggest more than a 50% reduction in either plane of motion at baseline; the VA examiner’s DeLuca comments and the NARSUM description of the gait impediment induced by continued ambulation would support a conclusion that the *functional* limitation could be fairly characterized as ‘marked.’ After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a disability rating of 20% for the left ankle condition under VASRD code 5299-5271.

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 ankle condition, the Board unanimously recommends a disability rating of 20%, coded 5271, 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; and, that the discharge with severance pay be recharacterized to reflect permanent disability retirement, effective as of the date of his prior medical separation.

UNFITTING CONDITION	VASRD CODE	RATING
Surgical Residuals, Left Ankle	5299-5271	20%
	COMBINED	20%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120604, 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 / XXXXXX), 2900 Crystal Drive, Suite 300, Arlington, VA 22202-3557

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation
 for XXXXXXXXXXXXXXXXXXXX, AR20120022725 (PD201200654)

1. 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 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

XXXXXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
 DoD PDBR
 DVA