

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX
CASE NUMBER: PD1200670
BOARD DATE: 20121207

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20021024

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty Soldier, SGT/E-5 (77F/Petroleum Supply Specialist), medically separated for left elbow pain. The CI injured his left elbow in 2001, and experienced persistent elbow pain despite non-operative management. The condition could not be adequately rehabilitated and the CI did not improve adequately to meet the physical requirements of his Military Occupational Specialty (MOS). He was issued a permanent U3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded left elbow loose bodies status post dislocation as medically unacceptable IAW AR 40-501. The MEB forwarded no other conditions for Physical Evaluation Board (PEB) adjudication. The PEB adjudicated the pain left elbow, as unfitting, rated 0% with application of the US Army Physical Disability Agency (USAPDA) pain policy. The CI made no appeals, and was medically separated with a 0% disability rating.

CI CONTENTION: The CI states: "Left elbow fracture of coronoid process with loose joint fragments. I gave the military 12 years and a [sic] elbow and that was worth 0%. I wear a elbow brace everyday and tired of fighting them. How could the PEB grant me 0% but the hospital in Landstuhl Germany grant me 10% without the physical. I was unable to attend the physical because I was place on 24 hour staff duty the day before. The physical was scheduled during my clearing process and I could not reschedule. If I could have attended the physical I know I should have at least been granted 30%. I had a wife and 3 children to worry about and put their needs first. I trust this board will make the right decision and grant me and my family what we justly deserve." [sic]

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. 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 20020808			VA – All Effective Date 20021025			
Condition	Code	Rating	Condition	Code	Rating	Exam
Pain Left Elbow	5099-5003	0%	Left Elbow Coronoid Process Fracture w/Loose Fragments	5099-5024	10%	STR*
↓No Additional MEB/PEB Entries↓			0% X 1 / Not Service-Connected x 0			STR
Combined: 0%			Combined: 10%**			

*Service Treatment Record

**VA decisions on 20050928 and 20120125 increased two non-PEB conditions to 10% and 30%, effective 20050413 and 20100713; combined 20%, then 40%

ANALYSIS SUMMARY:

Left Elbow Condition. The CI injured his non-dominant left elbow on 31 March 2001 when he fell backwards while playing with his son. Evaluation revealed an avulsion fracture of the coronoid process of the elbow joint. Although it was not evident at the initial emergency room visit, the description of the injury was thought to be consistent with an elbow dislocation, which spontaneously reduced. The injury was treated with casting followed by aggressive occupational therapy, and full range-of-motion (ROM) was regained. Pain, particularly with full extension, continued. A CT scan performed in March 2002 showed multiple loose bodies about the elbow joint. The CI declined a surgical option, since the benefit was considered by the orthopedist to be uncertain. There were two 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.

Left Elbow ROM	Ortho ~9 Mos. Pre-Sep	Ortho ~4 Mos. Pre-Sep
Flexion (0-145°)	0-135°	0-140°
Pronation (0-80°)	Not specified	"Full"
Supination (0-85°)		
Comment	+Tenderness, painful motion	+Tenderness
§4.71a Rating	10%	10%

The narrative summary (NARSUM) examiner indicated that the elbow pain was occasionally accompanied by a catching sensation. Firing a weapon from a prone position, heavy lifting, climbing into military vehicles, carrying a rucksack and doing pushups was difficult. Physical examination showed full pronation and supination of the elbow and tenderness at the lateral ulno-humeral joint. Loose bodies were not palpable. The first VA Compensation and Pension (C&P) exam was performed over 2-1/2 years after separation. The CI complained of painful motion associated with a popping sensation in the elbow. Pain prevented lifting, pushing and some sports participation. He denied locking. Examination revealed a prominence at the left radial head. Extension and flexion was 0-170 degrees, and pronation and supination were full. Repetition of motion produced an audible and palpable click. There was no instability.

The Board directs attention to its rating recommendation based on the above evidence. The PEB's DA Form 199 reflected application of the USAPDA pain policy for rating. The presence of non-compensable limitation of motion, as well as sufficient evidence of functional loss (§4.40) and painful motion (§4.59), supported a 10% rating under §4.71a standards. The Board could find no support for rating higher than 10% under alternate elbow or forearm codes. 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 left elbow 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. As discussed above, PEB reliance on the USAPDA pain policy for rating the elbow pain was operant in this case and the condition was adjudicated independently of that policy by the Board. In the matter of the pain left elbow condition, the Board unanimously recommends a disability rating of 10%, coded 5099-5003 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:

UNFITTING CONDITION	VASRD CODE	RATING
Pain Left Elbow	5099-5003	10%
	COMBINED	10%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120606, 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 / XXXXXXXXX), 2900 Crystal Drive, Suite 300, Arlington, VA 22202-3557

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation
 for XXXXXXXXXXXXXXXXXXXX, AR20120022747 (PD201200670)

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 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