RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXX
CASE: PD1200678
BOARD DATE: 20121212

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20020601

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (12B1P/Combat Engineer), medically separated for chronic right lower extremity pain. The CI incurred a right tibiofibular fracture on parachute landing in January 2001 requiring multiple surgeries. He 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). Status post (s/p) right tibiofibular fracture with compartment syndrome and fasciotomy and intramedullry nailing of tibiofibular fracture were forwarded to the Informal Physical Evaluation Board (IPEB) as medically unacceptable IAW AR 40-501, 3-41e. The IPEB adjudicated right lower extremity pain following a tibial-fibula fracture as unfitting rated 10%. The CI appealed to a Formal PEB (FPEB), which adjudicated chronic right lower extremity pain following tibia-fibula fracture as unfitting rated at 20%; and he was thus medically separated with a 20% disability rating.

CI CONTENTION: "I am currently being treated for Complex Regional Pain Syndrome, which has developed as a result the compartment syndrome which occurred at the time of the injuries/accident. I have also developed lower back problems due to the 1 inch limb length discrepancy *[sic]*, and which has additionally caused sciatica of the left leg. I am unable to exercise, as well as do many routine daily activities. On days when the pain is really bad, I walk with a severe limp. I have had to change careers, taking an office job, in order to get away from labor intensive activities. Even with my career change, I still miss many days of work due to the chronically poor condition of my lower body. I have spent countless nights awake due to pain, unable to sleep. I still continue to have swelling in the injured leg, and periodically the fasciotomy scars will still bleed, scab over, then heal back, for no explained reason. I have no stability in the ankle of the injured leg. I have to wear an ankle brace religiously to prevent the ankle from twisting, and the foot from dropping, and rolling on me constantly (unable to walk on any uneven surface). I have developed depression because these injuries have so drastically changed my life. Unable to do many of the things I loved to do, and unable to many of the things I still need to do. I have recently been consulted by the VA to a private pain specialist to discuss the possibility of implanting a spinal cord stimulator to try to manage the pain better, and help me regain some normal function. I honestly don't know how much longer I can go on like I have. I am unable to take the really strong narcotics and still be able to work, and think straight. Therefore I have stayed with non-narcotic drug therapies up to this point. I have developed GERD due to all of the pain medications & Ibuprophen (800mg) that I take constantly. Each time the VA has granted me a disability rating for one condition, they have taken away that percentage for another condition, therefore keeping my total combined rating from increasing."

SCOPE OF REVIEW: The Board's scope of review is defined in DoDI 6040.44, Enclosure 3, paragraph 5.e.(2). It is limited to those conditions determined by the PEB to be unfitting for continued military service and those conditions identified but not determined to be unfitting by the PEB when specifically requested by the CI. Ratings for unfitting conditions will be reviewed in all cases. The chronic right lower extremity pain as requested for consideration meets the

criteria prescribed in DoDI 6040.44 for Board purview; and is addressed below. Lower back problems, sciatica of the left leg, depression, gastroesophageal reflux disease (GERD) and 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. Also IAW DoDI 6040.44, the Board's authority is limited to making recommendations on correcting disability determinations. The Board's role is thus confined to the review of medical records and all evidence at hand to assess the fairness of PEB rating determinations, compared to Veteran's Administration Schedule for Rating Disabilities (VASRD) standards, based on ratable severity at the time of separation. The Board acknowledges the CI's information regarding the significant impairment with which his service-connected conditions continues to burden him; but, must emphasize that the Disability Evaluation System (DES) has neither the role nor the authority to compensate members for anticipated future severity or potential complications of conditions resulting in medical separation. That role and authority is granted by Congress to the Department of Veterans' Affairs (DVA), operating under a different set of laws.

RATING COMPARISON:

Service FPEB – Dated 20020319			VA - (10 Mos. Post-Separation) All Effective Date 20020602			
Condition	**Code**	**Rating**	**Condition**	**Code**	**Rating**	**Exam**
Chronic Right Lower Extremity Pain	5299-5262	20%	Status Post Right Distal Tibia and Fibula Fracture	5262	0%*	20030414
			Medial Right Leg Scar	8627-7804	10%	20030414
			Lateral Right Leg Scar	7804	0%	20030414
			Right Ankle Scars	7804	0%	20030414
↓No Additional MEB/PEB Entries↓			Left Hip Iliotibial Band Syndrome	5099-5024	10%	20030414
Combined: 20%			**Combined: 20%**			

Based on VARD 20030626 (most proximate to date of separation)
*Changed to 10% effective 20030721; 20% effective 20040126.

ANALYSIS SUMMARY:

Chronic Right Lower Extremity Pain Condition. On 9 January 2001, the CI incurred right mid shaft tibia and fibular spiral fractures in a parachute jump and underwent surgical open reduction and fixation of the tibial fracture on 13 January 2001. Post operatively he developed a compartment syndrome of the right lower leg and underwent a fasciotomy procedure on 14 January 2001. Following initial recovery from surgery, the CI continued to experience pain in the fracture site as well as the knee and ankle with activity. The tibial nail was prominent and painful, and the fracture was not healing. On 19 October 2001, the CI underwent removal and replacement of the orthopedic hardware. Post operative recovery was satisfactory; however he had some residual knee pain, antero-lateral ankle pain, and heel pain. At the time of follow up in the orthopedic clinic on 14 November 2001, the surgical incisions were well healed and the knee had near completely full range-of-motion (ROM). There was mild tenderness at the surgical site, and tenderness of the anterolateral ankle and the heel. The orthopedic surgeon concluded referral for MEB was advisable due to persisting discomfort at the ankle and his opinion that further improvement would occur over a prolonged period of many months or even years. At the time of an 11 December 2001 orthopedic follow up evaluation, there was continued anterior knee pain and anterolateral ankle pain. The surgeon indicated that the ankle pain was the predominant problem and thought it to be due to either synovitis or impingement. The anterior knee pain was thought to be due to surgery and expected to continue to improve. An X-ray demonstrated well placed hardware and satisfactory fracture healing. An 11/16th of an inch leg length discrepancy on the injured extremity and a history of

recurring left iliotibial band syndrome since prior to the leg fracture was noted in examinations. The MEB narrative summary (NARSUM) performed on 17 January 2002 cited recent examinations. A physical therapy ROM examination of the right ankle documented mild limitation of right ankle motion in dorsiflexion (14 degrees), and mild weakness of right ankle movement compared to the left. In a memorandum to the PEB, the CI reported continued ankle pain and heel pain. At the VA Compensation and Pension (C&P) examination, performed on 14 April 2003, 10 months after separation, the CI reported intermittent knee and ankle pain particularly with prolonged standing. Pain at the fracture site limited his job opportunities. On examination there was no tenderness, swelling, or discoloration of the ankle, knee or foot. The ROM was normal for both the right knee (extension 0 degrees, flexion 140 degrees) and right ankle (dorsiflexion 20 degrees, plantar flexion 45 degrees) without instability. There were numerous surgical scars but otherwise the lower extremity was without swelling or discoloration. X-rays demonstrated a healed fracture with retained hardware and good alignment. CI reports treatment for complex regional pain syndrome after separation, however there was not objective evidence of this generalized regional pain syndrome at the time of the MEB and PEB or the first C&P examination.

The Board directs attention to its rating recommendation based on the above evidence. Both the PEB and VA rated the condition using the VASRD diagnostic code 5262, impairment of tibia and fibula. The PEB rated 20% for moderate knee or ankle disability based on examinations 2 months after the second surgery while the VA rated 10% for slight ankle or knee disability based on the C&P examination performed 18 months after the second surgery. The Board discussed whether the condition at the time of separation more nearly approximated the 30% rating under this code (5262) than the 20% rating adjudicated by the PEB but concluded that it did not. The Board also considered whether separate ratings for the knee and ankle were warranted but noted that by the time of the PEB, the knee had improved significantly with full ROM such that a compensable rating would not result. The ankle examination results supported a 10% rating providing no benefit to the CI. The leg length discrepancy noted in the NARSUM does not attain a minimum rating under the code for leg length discrepancy. The Board agreed that the C&P examination supported a 10% evaluation. 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 chronic right lower extremity 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. 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 chronic right lower extremity pain condition and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication. There were no other conditions within the Board's scope of review for consideration.

RECOMMENDATION: The Board, therefore, recommends that there be no recharacterization of the CI's disability and separation determination, as follows:

UNFITTING CONDITION	VASRD CODE	RATING
Chronic Right Lower Extremity Pain	5299-5262	20%
	COMBINED	**20%**

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20120601, w/atchs
Exhibit B. Service Treatment Record
Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXXXXXXX, 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 XXXXXXXXXXXXXX, AR20130000019 (PD201200678)

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 and hereby deny the individual's application.
This decision is final. The individual concerned, counsel (if any), and any Members of Congress who have shown interest in this application have been notified of this decision by mail.

BY ORDER OF THE SECRETARY OF THE ARMY:

Encl

XXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
( ) DoD PDBR
( ) DVA