

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXXXX
CASE NUMBER: PD1200689
BOARD DATE: 20121127

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20031020

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (88M/Motor Transport Operator), medically separated for chronic pain right ankle status post (S/P) open reduction internal fixation (ORIF) of supination external rotation IV ankle fracture. The CI injured her right ankle roller skating and underwent surgery. She continued to have activity driven chronic pain. Her chronic right ankle pain condition could not be adequately rehabilitated and she was unable to meet the physical requirements of her Military Occupational Specialty (MOS) or satisfy physical fitness standards. She was issued a permanent L3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded no other conditions for Physical Evaluation Board (PEB) adjudication. The PEB adjudicated the chronic pain, right ankle condition as unfitting, rated 0% with cited 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 elaborated no specific contention in her application.

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 20030818			VA (5 Mos. Post-Separation) – All Effective Date 20031021			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Pain, Right Ankle...	5099-5003	0%	Residuals of Right Ankle Fracture, Status Post-Operative Open Reduction and Internal Fixation	5299-5271	0%	20040308
↓No Additional MEB/PEB Entries↓			0% X 1 / Not Service-Connected x 3			
Combined: 0%			Combined: 0%			

ANALYSIS SUMMARY:

Chronic Pain Right Ankle S/P ORIF of Supination External Rotation IV Ankle Fracture Condition. In June 2002 the CI sustained a right ankle injury while roller skating. Two days post-injury the CI underwent an ORIF of a supination external rotation IV ankle fracture with transsyndesmotoc disruption. Three months after surgery the CI continued to have pain and the transsyndesmotoc screw was removed. Despite screw removal, physical therapy, analgesics, and activity modification, the CI continued to have persistent right ankle anterior pain with weight bearing

that radiated up her leg. The goniometric range-of-motion (ROM) evaluations in evidence which the Board weighed in arriving at its rating recommendation, with documentation of additional ratable criteria, are summarized in the chart below.

Right Ankle ROM	PT ~14 Mo. Pre-Sep	Narsum ~3 Mo. Pre-Sep	VA C&P ~5 Mo. Post-Sep
Dorsiflexion (0-20°)	See comment	0°	70°
Plantar Flexion (0-45°)	30°	48°	30°
Eversion (0-25°)			10°
Inversion (0-35°)			15°
Comment:	6-weeks post -op; Lack five degrees to neutral of dorsiflexion; moderate soft tissue swelling, 4+/5 strength at end of available range; unable to perform single leg calf raise	Firm end point to dorsiflexion; "pain with attempts at further dorsiflexion beyond 0°"; moderate swelling; no pain on passive ankle motion; TTP	No tenderness to palpation, normal gait and neurologic exam; mild functional loss of range of motion due to pain (see text)
§4.71a Rating	10%	10% (PEB 0%)	10% (VA 0%)

At the MEB exam, 3 months prior to separation, the CI reported pain worse with bad weather and impact activity. She reported that wearing tennis shoes and avoiding impact activities controlled her discomfort. The MEB physical exam noted tenderness to palpation at the anterolateral ankle region with moderate soft tissue swelling. X-rays demonstrated a healed fibular fracture with good alignment and no evidence of degenerative joint disease. Her profile limitations were run at own pace and distance, no marching, and no PFT run, walk, or bicycle. The exam is summarized above, and did not specifically address gait. At the VA Compensation and Pension (C&P) exam 5 months after separation, the CI reported 7/10 pain with 10/10 activity dependent painful exacerbations. She reported that exacerbations decreased her functional level by 50%. She reported inability to walk long distances, run, or jump. She used Fioricet (narcotic) and topical pain creams for pain management. She did not use a brace. The VA exam demonstrated no tenderness to palpation, normal gait and normal anatomical ROM. The examiner's diagnosis indicated "Right ankle fracture, status post ORIF with mild functional loss of range of motion due to pain."

The Board directs attention to its rating recommendation based on the above evidence. The PEB adjudicated the chronic pain, right ankle condition as unfitting, rated at 0%, and coded 5099-5003 citing the USAPDA pain policy. The VA coded the right ankle 5299-5271, analogous to ankle limitation of ROM, and rated it at 0%. The Board considered the C&P dorsiflexion of 70 degrees was inconsistent with prior ROM measurements, or would have indicated significant ankle joint abnormality given the normal 0-20 degrees normal ankle dorsiflexion ROM and the anatomy of the ankle. The Board adjudged that as there was no significant evidence of abnormal gait proximate to separation, that limitation of motion could not be characterized as "Marked" (20%) under 5271 (Ankle, limited motion). There was no evidence of ankle instability. The Board deliberated between coding under 5271 as "Moderate" (10%) and use of code analogous 5003 with application of VASRD §4.59 (painful motion). All exams indicated either pain-limited ROMs or functional loss of ROM due to pain. 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 right ankle condition coded 5099-5003.

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 right ankle condition was operant in this case and the condition was adjudicated independently of that policy by the Board. In the matter of the right ankle 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 her prior medical separation:

UNFITTING CONDITION	VASRD CODE	RATING
Chronic Pain Right Ankle Status Post (S/P) Open Reduction Internal Fixation of Supination External Rotation IV Ankle Fracture	5099-5003	10%
	COMBINED	10%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120611, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXX, DAF
President
Physical Disability Board of Review

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation
for XXXXXXXXXXXXXXXXXXXX, AR20120022729 (PD201200689)

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