

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX
CASE NUMBER: PD1201087
BOARD DATE: 20130108

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20030421

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was a National Guard SGT/E-5 (12B/Combat Engineer), medically separated for left knee pain. The CI injured his left knee during training in 2001. The left knee condition could not be adequately rehabilitated following menisci surgery to meet the physical requirements of his Military Occupational Specialty or satisfy physical fitness standards. He was issued a permanent L3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded left knee osteoarthritis as not meeting standards to the Physical Evaluation Board (PEB). There were no other MEB conditions forwarded for PEB adjudication. The PEB adjudicated the left knee condition as unfitting, rated 0% with application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 0% disability rating.

CI CONTENTION: "Severe degenerative joint disease in both knees should have been rated higher and affected my ever (*sic*) day living, quality of life and ability to stay gainfully employed."

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. The unfitting left knee condition as requested for consideration meets the criteria prescribed in DoDI 6040.44 for Board purview; and, is addressed below. The right knee is not within the Board's 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 PEB – Dated 20021219			VA (12 Mos. Post-Separation) – All Effective Date 20040320			
Condition	Code	Rating	Condition	Code	Rating	Exam
Left Knee Pain	5003	0%	Residuals from S/P Posterior Medial Meniscectomy, L/Knee w/Degenerative Changes	5010	20%*	20040320
↓No Additional MEB/PEB Entries↓			Right /Knee w/Arthritis Assoc w/residuals from S/P Posterior Meniscectomy, L/Knee, w/Degenerative Changes	5010-5261	10%**	20011011
			Not Service-Connected x 1			
Combined: 0%			Combined: 30%			

*Prior L knee 10% from 20010209; temporary 100% (CFR4.30) from 20020128-20020401; increased to 20% from 20040320.
** R knee 10% effective from 20031021

ANALYSIS SUMMARY:

Left Knee Condition: The CI had a several year history of left knee pain related to multiple minor injuries while running. Radiological imaging revealed left knee osteoarthopathy, small joint effusion and a meniscal tear. The CI underwent a left knee arthroscopic partial medial meniscectomy in January 2002. Post-operatively, his symptoms remained unchanged. 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 below.

Left Knee ROM (Degrees)	MEB ~5 Mo. Pre-Sep	VA C&P ~1 Mo. Post-Sep	VA C&P ~12 Mo. Post-Sep
Flexion (140 Normal)	130	"-3 to 140"	"15-100"
Extension (0 Normal)	-5		
Comment	moderate effusion; tender; no instability	"Limping with a crutch in the right hand and wearing a brace on left knee"; tender; painful ROM; no instability; no effusion	Large effusion; severe varus deformity; crepitus; pain with ROM; pain likely decreases ROM by ~20%
§4.71a Rating	10% (PEB 0%)	10% (VA 10%)	20%

At the MEB exam, the CI reported having continued persistent pain and swelling of his left knee to the point of interference with activities of daily living as well as performing his military duties. The MEB physical exam noted left knee ROMs as summarized above. Additionally, there was tenderness under the patella as well as over the medial and lateral aspects of the left knee. A moderate effusion was noted and there was no instability. Radiographs demonstrated osteoarthrosis with magnetic resonance imaging showing degenerative changes as well as a tear of the medial meniscus. The MEB DD Form 2808 noted moderate retropatellar grind.

At the VA Compensation and Pension (C&P) exam, a month after separation, the CI reported continued left knee pain at a scale of 6/10 most days with episodes of 10/10 pain when severe. The examiner stated "He uses a crutch, one crutch on the right. He has a knee brace for the left knee, as well as a knee immobilizer for the right knee." Both of these look new and do not appear worn. Examination reveals joint line tenderness without evidence of instability. The exam and ROMs are summarized above. A more remote VA exam, 12 months post-separation, indicated a large effusion and diminished ROMs as charted above. The VA rated this later exam at 20%. Subsequent C&P exams and VA rating increases/adjustments are noted in the record.

The Board directs its attention to its rating recommendations based on the evidence just described. It was unclear if the MEB extension was limited by 5 degrees, or hyperextension to 5 degrees, but this had no impact on rating as the 10% criteria for 5261 (Leg, limitation of extension) is 10 degrees. Proximate to separation the exams indicated ROMs that were is noncompensable under the appropriate knee diagnostic codes for flexion or extension. There was objective evidence of traumatic arthritis [5010 (Arthritis, due to trauma)] and all exams documented either Painful motion IAW §4.59 or swelling or disability IAW §4.45 (The joints) to warrant a minimum 10% rating. There was no objective evidence of mechanical instability or locking, but primary symptoms were "persistent pain and swelling" and the CI had complained of locking. The VA exam proximate to separation indicated no effusion, while the MEB and remote VA exams indicated knee effusion. Examination of the treatment record and imaging documented numerous episodes of left knee effusion. The Board deliberated if the record supported sufficient episodes of pain and effusion into the joint to meet the 5258 (Cartilage, semilunar, dislocated) 20% criteria, despite no objective episodes of locking, or if the CI's disability picture was closer to the 5259 (Cartilage, semilunar, removal of, symptomatic) 10% rating picture. Both codes include consideration of painful motion. The 5258 criteria are:

“Cartilage, semilunar, dislocated, with frequent episodes of “locking,” pain, and effusion into the joint.”

After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt) and §4.59 (Painful motion), the Board recommends a disability rating of 10% for the left knee condition, coded 5010-5259.

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. In the matter of the left knee condition, the Board unanimously recommends a disability rating of 10%, coded 5010-5259 IAW VASRD §4.71a.

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
Left Knee Pain s/p Arthroscopic Surgery for Meniscal Tear	5010-5259	10%
	COMBINED	10%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120702, 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, AR20130001032 (PD201201087)

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