

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXX
CASE NUMBER: PD1200232
BOARD DATE: 20121022

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20050511

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SGT/E-5 (88M/Truck Driver), medically separated for chronic left upper extremity pain and weakness secondary to shrapnel injury. The CI sustained shrapnel injury to left upper arm from an IED attack in Iraq in September 2003. A chronic left upper extremity pain and weakness condition developed and could not be adequately rehabilitated with treatment to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He 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 left upper extremity pain and weakness 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: "Service member received a rating of 0% for injuries he suffered from an IED explosion on active duty during OIF1 Sep 2003. Service member was not evaluated for PTSD and TBI during his separation from the military."

SCOPE OF REVIEW: The Board wishes to clarify that the scope of its review as defined in the Department of Defense Instruction (DoDI) 6040.44 (4.a) is limited to those conditions which were determined by the PEB to be specifically unfitting for continued military service; and, when requested by the CI, those condition(s) "identified but not determined to be unfitting by the PEB." The unfitting chronic left upper extremity pain and weakness condition meets the criteria prescribed in DoDI 6040.44 for Board purview; and, is addressed below. Other requested conditions, posttraumatic stress disorder and traumatic brain injury are 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 IPEB – Dated 20050216			VA (4 Mos. Post-Separation) – All Effective Date 20050512			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Left Upper Extremity Pain and Weakness Secondary to Shrapnel Injury	5303	0%	Residuals of Shrapnel Wound to the Left Arm and Hand to Include Scarring with Complaints of Loss of Sensation and Weakness	7804-8516	10%	20050915
			Left Shoulder Condition with Weakness and Loss of Strength	5201	0%	20050915
			Tinnitus	6260	10%	20051027
↓ No Additional MEB/PEB Entries ↓			0% X 2 / Not Service-Connected x 4			20050915

Combined: 0%

Combined: 20%

ANALYSIS SUMMARY: The Disability Evaluation System (DES) is responsible for maintaining a fit and vital fighting force. While the DES considers all of the member's medical conditions, compensation can only be offered for those medical conditions that cut short a member's career, and then only to the degree of severity present at the time of final disposition. The DES has neither the role nor the authority to compensate members for anticipated future severity or potential complications of conditions resulting in medical separation nor for conditions determined to be service-connected by the Department of Veterans' Affairs (DVA) but not determined to be unfitting by the PEB. However the DVA, operating under a different set of laws (Title 38, United States Code), is empowered to compensate all service-connected conditions and to periodically re-evaluate said conditions for the purpose of adjusting the Veteran's disability rating should the degree of impairment vary over time. The Board's role is confined to the review of medical records and all evidence at hand to assess the fairness of PEB rating determinations, compared to VASRD standards, based on severity at the time of separation.

Chronic Left Upper Extremity Pain and Weakness. The CI sustained shrapnel wounds and abrasions to the left upper arm and forearm from an IED attack in Iraq in 2003. Wounds were superficial and debrided without closure in the emergency department. X-rays identified a small foreign body near the biceps muscle and some small bits of fragment in the mid forearm but no bone injury. The foreign body was subsequently removed through a small incision and the wounds, primarily closed with six sutures. Postoperatively the wounds healed but the CI developed symptoms of pain and weakness in the wrist, elbow and, left shoulder. On a clinic visit performed on 4 April 2004, the CI first reported pain in the shoulder when lifting the arm over his head. Routine X-rays of the shoulder and wrists were normal. Magnetic resonance imaging (MRI) of the shoulder performed in May 2006, revealed only some degenerative disease in the left AC joint area. A neurology exam performed on 20 July 2004, 3 months prior to the MEB, motor strength of all muscles of the left and right shoulders, elbows and wrists were 5/5. Sensory and reflex examinations were normal. Electromyelogram (EMG) studies, performed on 24 June 2004, were reported to identify no nerve injury. There were multiple goniometric range-of-motion (ROM) evaluations in evidence, with documentation of additional ratable criteria, which the Board weighed in arriving at its rating recommendation; as summarized in the charts below.

Left Elbow (Degrees)	MEB 7 Mo. Pre-Sep (20041022)	C&P 4 Mo. Post-Sep (20050915)
Flexion (Normal 145)	130 (RT 137)	Full
Extension(145)	130 (RT 137)	Full
Comment	Complete AROM attained; No painful ROM	No painful motion
§4.71a Rating	0%	0%

Left Wrist (Degrees)	MEB ~7 Mo. Pre-Sep (20041022)	VA C&P ~4 Mo. Post-Sep (20050915)
Dorsiflexion (Normal 70)	60	Full
Palmar Flexion (80)	65	Full
Comment	No painful ROM	No painful motion
§4.71a Rating	0%	0%

Left Shoulder (Degrees)	MEB 5 Mo. Pre-Sep (20050111)	C&P 4 Mo. Post-Sep (20050915)
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Flexion (180)	175	180
Abduction (180)	180	180
Comments	No painful motion; No change with repetition	No painful motion repetition;
§4.71a Rating	0 %	0%

At the MEB/narrative summary (NARSUM) evaluation performed on 10 October 2004, 5 months before separation, the CI reported numbness and tingling in the left arm and hand and chronic pain in the left arm and shoulder and he was unable to do pushups. The MEB physical exam noted focal tenderness over the left shoulder joint. ROM examinations for all joints of the left arm were slightly reduced as noted above. Sensory exam was normal and motor strength 4-5/5. At the VA Compensation and Pension (C&P) exam performed on 15 September 2005, 4 months after separation, the CI reported no arm pain and pain in the shoulder on only when raising arm above shoulder level. He noted that the he was a full time student and the arm condition did not affect his daily activities. Results of the physical examination are noted above. There was no painful ROM or limitation of ROM for any joint. A small area of numbness, 4 by 2 cm, was noted on the left forearm adjacent to a small scar. The neurologic exam, including sensation in this area, was normal. The Board directs attention to its rating recommendation based on the above evidence. The Board notes the CI to be right hand dominant. The PEB rated the left upper extremity condition 0% code 5303, muscle group III (shoulder girdle) slight, citing slightly weakened upper extremity motor strength. The VA separated the arm into two components rating: the forearm rated 10% using code 7804-8516, citing scars and slight cutaneous numbness and the shoulder, rated 0% using code 5201 citing history of subjective pain with movement of the arm to shoulder level not shown on examination. The Board reviewed the rating by the PEB. The Board noted the CI to reference difficulties with the shoulder, elbow and forearm and the PEB to combine these and rate as a single unfitting condition. Not uncommonly this approach by the PEB reflected its judgment that the constellation of conditions was unfitting, and there was no need for separate fitness adjudications or implied adjudication that each condition was separately unfitting. The Board may unbundle for individual rating but, in that circumstance, must maintain the prerogative of separate fitness recommendations, with the caveat that its recommendations may not produce a lower combined rating than that of the PEB. The Board first addressed the fitness of each individual left upper extremity region affected by the shrapnel wounds. The Board noted the unfitting inability of the CI to carry or fire a weapon, carry a fighting load at least two miles, construct individual fighting, don or wear chemical defense equipment or perform other duties required of a soldier in his grade and MOS. The Board noted that the functions of the arm are complexly integrated in the performance of these duties and was unable to ascertain from the service record any specific anatomic arm location or function that was individually unfitting.

The Board unanimously agreed that individually, the shoulder, forearm and wrist impairments were non-compensable under §4.71a, and §4.59 given slight reductions in ROM without pain and normal strength on proximate examinations. The Board considered rating each under §4.56, (evaluation of muscle disability), but no rating higher than 0%, slight, was achievable. The Board noted that the residual scars were small, stable not tender and therefore were not unfitting for military duty and therefore not subject to rating. There was no evidence of ratable peripheral nerve impairment in this case, since no motor weakness was present, electrodiagnostic studies were negative for a nerve impairment and sensory symptoms had no functional implication. 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 left arm 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. In the matter of the left arm condition and IAW VASRD §4.73, 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 Left Upper Extremity Pain and Weakness...	5303	0%

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20120305, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans' Affairs Treatment Record

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President

Physical Disability Board of Review

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation for
XXXXXXXXXXXXXXXXXXXX, AR20120020579 (PD201200232)

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

XXXXXXXXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
() DoD PDBR
() DVA