

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX  
CASE NUMBER: PD1200414  
BOARD DATE: 20130115

BRANCH OF SERVICE: ARMY  
SEPARATION DATE: 20091223

**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SFC/E-7 (88N40/Traffic Management Coordinator), medically separated for bilateral knee chondromalacia. The chronic bilateral knee pain started in Kuwait in 2004; however, this was not attributed to any type of trauma. Despite various medications, narcotics, nonsteroidal anti-inflammatory drugs, and other non-narcotics; steroid injections; physical therapy (PT); orthopedics consults; and a knee brace, the CI failed to meet the physical requirements of his Military Occupational Specialty or satisfy physical fitness standards. The CI was issued a permanent P2/L3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded bilateral knee pain from chondromalacia to the Physical Evaluation Board (PEB). Posttraumatic Stress Disorder (PTSD), major depressive episode, obstructive sleep apnea, hypertension, hyperlipidemia, lumbago, right index proximal interphalangeal joint pain, pes planus, right shoulder pain, and left hallux bunion conditions, identified in the rating chart below, were identified as meeting retention standards and were also forwarded by the MEB. The PEB adjudicated the bilateral knee chondromalacia with bilateral knee pain condition as unfitting, rated 20%, with 10% assigned for each knee and with application of the Veterans Affairs Schedule for Rating Disabilities (VASRD). The remaining conditions were determined to be not unfitting. The CI made no appeals, and was medically separated with a 20% disability rating.

**CI CONTENTION:** "Army rated PTSD @ 12/23/2009; VA rated PTSD 50% 12/24/2009. Medical discharge should have been medical retirement."

**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 PTSD condition requested for consideration and the unfitting bilateral knee condition meet the criteria prescribed in DoDI 6040.44 for Board purview, and are accordingly addressed below. 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 20090824			VA (1 Month Pre-Separation) – All Effective Date 20091224			
Condition	Cod e	Rati ng	Condition	Cod e	Rati ng	Exam
Bilateral Knee Chondromalacia	5099 - 5003	20%	Patellotemoral Syndrome Left Knee	5260	10%	20091118
			Patellotemoral Syndrome Right Knee	5260	10%	20091118
Post Traumatic Stress (PTSD)	Not Unfitting		Anxiety Disorder, diagnosed as PTSD with Depression, NOS	9411 - 9413	50%*	20091220 and VA treatment 20100115
Major Depressive	Not					

Episode	Unfitting				
Obstructive Sleep Apnea	Not Unfitting	Obstructive Sleep Apnea	6847	50%	20091118
Hypertension	Not Unfitting	Hypertension	7101	0%	20091118
Lumbago	Not Unfitting	Thoracolumbar Strain	5237	10%	20091118
Right Shoulder Pain	Not Unfitting	Arthropathy Right Shoulder	5201	10%	20091118
Pes Planus	Not Unfitting	Bilateral Pes Planus	5276	NSC	20091118
Hyperlipidemia	Not Unfitting	NO CORRESPONDING VA ENTRY			
Right Index Proximal Interphalangeal Joint Pain	Not Unfitting				
Left Hallux Bunion	Not Unfitting				
↓ No Additional Entries ↓	MEB/PEB	0% X 1 other / Not Service-Connected x 1 other			
<b>Combined: 20%</b>		<b>Combined: 80% (Bilateral Factor 1.9)</b>			

\*Initially rated 9413 Anxiety Disorder NOS with Depression NOS at 30%. PTSD diagnosed 20100809. In 2011, review of new diagnosis and VA treatment records led to retroactive increase to 50% effective 20091224, the day after separation.

**ANALYSIS SUMMARY:** The Board's authority as defined in DoDI 6040.44, resides in evaluating the fairness of Disability Evaluation System fitness determinations and rating decisions for disability at the time of separation. The Board utilizes VA evidence proximal to separation in arriving at its recommendations; and, DoDI 6040.44 defines a 12-month interval for special consideration to post-separation evidence. Post-separation evidence is probative only to the extent that it reasonably reflects the disability and fitness implications at the time of separation.

**Bilateral Knee Chondromalacia with Bilateral Knee Pain Condition.** On the DA Form 199, the PEB appeared to have combined left and right knee chondromalacia as a single unfitting condition, coded analogously to 5003 and rated 20%. However, the PEB explained that each knee was assigned a 10% rating based on painful motion and the bilateral factor was applied to arrive at the combined 20% rating.

There were three 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 chart below.

Bilateral Knee ROM	MEB ~9 Mo. Pre-Sep		Ortho ~7 Mo. Pre-Sep		VA C&P ~1 Mo. Pre-Sep	
	Left	Right	Left	Right	Left	Right
Flexion (140° Normal)	140° (140, 139, 140) pain 5/10	135° (135, 137, 134) pain 5/10	135°	135°	140°*	140°*
Extension (0° Normal)	0° (0, 0, 1) pain 5/10	0° (1, 1, 2) pain 6/10	0°	0°	0°	0°

<p>Comment 20080407 MRI left knee-mild chondromalacia ganglion cyst, infrapatellar tendonosis</p> <p>20060205-MRI Right knee-Grade II posterior horn medial meniscus increased signal; Grade I posterior horn lateral meniscus changes 20080407-MRI right knee-No evidence of chondromalacia</p> <p>20031230 Bone scan stress related changes</p>	<p>Left knee: Gait mildly antalgic favoring left knee; medial joint tenderness medial; mild swelling</p> <p>Bilateral findings: ROM limited by pain with motion and repeated motion, fatigue weakness, lack of endurance, incoordination; Tenderness and pain of patellar tendons; crepitus with passive ROM; pain with patellar subluxation; normal stance and posture; no ligamentous laxity; no assistive device</p>	<p>Pain anterior, worse with stairs prolonged sitting/kneeling; right seems most affected; no locking, effusions or instability; gait and stance normal; motor exam normal</p>	<p>*Painful motion from 70 to 140. No decrease with repeated motion. Tenderness; normal stability; ligaments all normal; no guarding; normal gait; knee brace with activities</p>			
\$4.71a Rating	10%	10%	10%	10%	10%	10%

The CI had a well-documented history of bilateral knee pain. There was no history of trauma or surgery for either knee. There were multiple PT notes in the service treatment record for the CI's left and right knee pain conditions that indicated bilateral knee tenderness and pain on ambulation. The treatment notes indicated a diagnosis of chronic bilateral knee pain. The MEB narrative summary (NARSUM) examination completed approximately 9 months prior to separation, indicated a functional impairment of mechanical limitations due to painful motion. The NARSUM exam findings are noted in the chart above. The CI was granted a permanent P2L3 Profile for bilateral knee pain from chondromalacia and sleep apnea. The VA Compensation & Pension (C&P) examination completed a month prior to separation noted pain, stiffness, fatigue and lack of endurance bilaterally. The C&P exam findings are noted in the chart above.

Contended PEB Conditions. The contended condition adjudicated as not unfitting by the PEB was PTSD. The Board's first charge with respect to this condition is an assessment of the appropriateness of the PEB's fitness adjudications. The Board's threshold for countering fitness determinations is higher than the VASRD §4.3 (Resolution of reasonable doubt) standard used for its rating recommendations, but remains adherent to the DoDI 6040.44 "fair and equitable" standard. The NARSUM examination completed 4 months prior to separation indicated that the CI's symptoms developed after handling dead bodies while in theater and these symptoms manifested themselves in the form of hypervigilance, irritability, self-isolation, forgetfulness, anxiety, and depression. The examiner opined that the CI occupational capacity was characterized as mild: "symptoms manifest only during periods of stress, and cause occupational impairment that decreases work efficiency and ability to perform occupational tasks." The Global Assessment of Functioning (GAF) was 60 to 65 (mild to moderate symptoms) for PTSD and 55 (moderate symptoms) for major depressive episode. However, the examiner also opined that the psychiatric symptoms were not independently impairing for military service and the CI continued to meet retention criteria. The CI had been in treatment with a civilian psychiatrist who had noted a GAF of 60 in April 2009 and 70 in July 2009. The CI had also been receiving biofeedback and behavioral health counseling at Fort Hood along with medications and therapy from the civilian psychiatrist; however, he was never issued a permanent profile related to a mental health condition. The C&P exam accomplished 3 days prior to separation noted a GAF of 65 (moderate symptoms). However, the examiner opined that the CI did not meet diagnostic criteria for PTSD, major depression "although there is some

evidence that he may have in the past,” or generalized anxiety disorder. No actual Axis I mental health diagnosis was made and the examiner noted the CI no longer had any significant depressive symptoms at all. The CI did continue to have symptoms of PTSD, anxiety, and depression, was later diagnosed with all three. He continued to receive treatment with medication and both individual and group therapy. His GAFs ranged from 65 to 60 through April 2010. No further GAFs were noted but in February 2011, he was noted to be doing better. His monthly individual therapy was discontinued and he was scheduled to follow-up in 5 months. The commander’s statement noted several examples of inappropriate conduct that may or may not have been related to the CI’s mental illness. He wondered if the CI had had an undiagnosed mental illness or if the CI was malingering. He stated the CI was unable to work without direct supervision and often attended to medical issues without notifying his supervisor.

The PTSD condition was reviewed by the action officer and considered by the Board. This condition was not profiled and was not judged to fail retention standards. There was no indication from the record that this condition significantly interfered with satisfactory duty performance. After due deliberation in consideration of the preponderance of the evidence, the Board concluded that there was insufficient cause to recommend a change in the PEB fitness determination for the contended PTSD condition and, therefore, no additional disability ratings can be recommended.

The Board directs attention to its rating recommendation based on the above evidence. Although they used different VASRD codes, both the PEB and the VA rated each knee at 10% based on painful motion. All exams met the 10% criteria rating for each knee with application of VASRD §4.10 (Functional impairment), §4.40 (Functional loss), §4.45 (The Joints), and §4.59 (Painful motion). Neither coding scheme offers an advantage. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board recommends a separation rating of 5099-5003 at 10% for the left knee chondromalacia with pain condition and 5099-5003 at 10% for the right knee chondromalacia with 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 bilateral knee chondromalacia with bilateral knee pain condition, the Board unanimously recommends no change in the PEB adjudication with a 10% rating for each knee. In the matter of the contended PTSD condition, the Board unanimously recommends no change from the PEB determination as not unfitting. 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:

<b>UNFITTING CONDITION</b>	<b>VASRD CODE</b>	<b>RATING</b>
Left Knee Chondromalacia with Pain	5099-5003	10%
Right Knee Chondromalacia with Pain	5099-5003	10%
<b>COMBINED (BLF 1.9)</b>		<b>20%</b>

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120507, 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  
XXXXXXXXXXXXXXXXXXXX, AR20130001366 (PD201200414)

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