

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXXXX  
CASE NUMBER: PD1200496  
BOARD DATE: 20130206

BRANCH OF SERVICE: ARMY  
SEPARATION DATE: 20011012

**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (13F/Fire Support Specialist), medically separated for left knee injury status post (s/p) anterior cruciate ligament and medial meniscus repair. The CI did not improve adequately 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). Alcohol abuse condition, identified in the rating chart below, was also identified and forwarded by the MEB. The Physical Evaluation Board (PEB) adjudicated the left knee injury condition as unfitting, rated 0%, with application of the Veteran’s Affairs Schedule for Rating Disabilities (VASRD). The remaining condition was determined to be not unfitting. The CI made no appeals, and was medically separated with a 0% disability rating.

**CI CONTENTION:** “I can’t work cont climb, can run, can’t stand for long times, I have anger problems because of this injury I over compensate to keep other from trying to take advantage of me.”

**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 Board for Correction of Military Records.

**RATING COMPARISON:**

Service IPEB – Dated 20010905			VA (NO EXAM/STR) – All Effective Date 20011013			
Condition	Code	Rating	Condition	Code	Rating	Exam
Left Knee Injury s/p Anterior Cruciate Ligament and Medial Meniscus Repair	5299-5003	0%	Persistent Anterior Knee Pain, s/p Left Anterior Cruciate Ligament Reconstruction and Medial Meniscus Repair	5257	20%	STR
Alcohol Abuse	Not Unfitting		No VA Entry			
↓ No Additional MEB/PEB Entries ↓			0% X # / Not Service-Connected x 3			STR
<b>Combined: 0%</b>			<b>Combined: 20%</b>			

**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.

Left Knee Condition. The CI underwent arthroscopic surgery of the left knee in March 1999 for reconstruction of the anterior cruciate ligament (ACL) and medial meniscus repair (not meniscectomy). He was returned to duty on a profile. On 17 May 2001, the CI presented to the clinic reporting continued left knee problems with rucking and carrying 50 pounds or more for 2 miles. On 5 June 2001, an orthopedic physician assistant documented near normal range-of-motion (ROM) (extension 0 degrees, flexion 130 degrees), medial joint line tenderness, a 1+ Lachman with solid end point (intact ACL), and absence of laxity on valgus and varus stress. On 3 July 2001, an orthopedic surgeon documented "full" ROM with a negative Lachman and no instability on valgus and varus stress. At the time of the MEB narrative summary (NARSUM), on 16 July 2001, the CI denied any functional instability post-operatively, but was unable to run more than a mile without pain or participate in strenuous military duties due to anterior knee pain. On examination, there was full painless ROM (extension 0 degrees, flexion 140 degrees). There was no instability (negative Lachman with good end point, negative drawer, negative pivot shift, no laxity with varus or valgus stress). There was no joint line tenderness but there was tenderness about the patella and positive patellar grind. The PEB adjudicated a 0% rating based on full ROM without residual joint instability. There was no VA Compensation and Pension (C&P) examination proximate to separation and the VA adjudicated a 20% rating under the code for instability (5257) based on the service treatment records (STR). The Board directs attention to its rating recommendation based on the above evidence. Board members agreed there was not any residual instability or dislocated meniscus with locking that warranted a rating under VASRD diagnostic codes 5257 (instability) or 5258 (dislocated meniscus). The MEB NARSUM ROM was normal and non-compensable. The Board discussed whether there was sufficient evidence to support a 10% rating for painful motion (§4.59) or a 10% rating under diagnostic code 5259 for symptomatic status post removal of semilunar cartilage (meniscus), even though the CI underwent a meniscus repair, not removal. ROM testing was characterized as painless, and the CI had limitations in running and strenuous military duties. The intent of the VASRD is for rating impairment in the average civilian occupation (§4.1). 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 knee condition.

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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 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:

<b>UNFITTING CONDITION</b>	<b>VASRD CODE</b>	<b>RATING</b>
Left Knee Injury s/p Anterior Cruciate Ligament Reconstruction...	5299-5003	0%
	<b>COMBINED</b>	<b>0%</b>

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The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120604, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXXXXXXXXXX, DAF  
Director  
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, AR20130002820 (PD201200496)

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

XXXXXXXXXXXXXXXXXXXXX  
Deputy Assistant Secretary  
(Army Review Boards)