

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XX
CASE NUMBER: PD1200592
BOARD DATE: 20130116

BRANCH OF SERVICE: NAVY
SEPARATION DATE: 20031107

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty IT2/E-5 (Information Systems Technician), medically separated for chronic right wrist pain/instability and chronic left wrist pain/instability conditions. The CI injured her wrists in March 1999 when a 75 pound box fell on both her wrists. After extensive treatment, including surgery on both wrists, the CI could not be adequately rehabilitated to meet medical requirements of her service. She was consequently placed on limited duty and referred for a Medical Evaluation Board (MEB). The MEB recommended the CI be disqualified from further military service due to chronic bilateral wrist pain/instability, left wrist ganglion cyst, osteoporosis, and osteoarthritis conditions, and forwarded these conditions to the Physical Evaluation Board (PEB). No other conditions were submitted by the MEB. The PEB adjudicated the chronic right wrist pain/instability and chronic left wrist pain/instability conditions as unfitting, rated 10% for each wrist, with a bilateral factor of 1.9% applied, providing a combined 20% permanent disability rating, citing criteria of the Veterans Affairs Schedule for Rating Disabilities (VASRD). The PEB adjudicated the CI's left wrist ganglion cyst as a Category II condition, relating it to her chronic left wrist pain/instability condition. The PEB determined the osteoporosis and osteoarthritis conditions to be Category III, conditions that are not separately unfitting and do not contribute to the unfitting conditions. The CI made no appeals, and was medically separated with 20% disability rating.

CI CONTENTION: "I believe that I should have been awarded permanent disability retirement because my disability is permanent and has worsened over the years. I respectfully request a reconsideration because I am no longer able to perform some everyday tasks. I often think about the way I was separated and at the time, I really did not know that I had the option to disagree with the decision, as I was not advised of it until many years later. If I was found unable to perform my simple job duties while on active duty, then what would I be able to do outside the military."

SCOPE OF REVIEW: The Board wishes to clarify that the scope of its review as defined in Department of Defense Instruction (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 the unfitting chronic right and left wrist pain/instability conditions and the related left wrist ganglion are addressed below. The osteoporosis and osteoarthritis conditions will be addressed only as they relate to the unfitting chronic wrist pain and instability conditions. Any other conditions intended in request for Board consideration, or any condition or contention outside the Board's defined scope of review, remain eligible for future consideration by the Board for the Correction of Naval Records.

RATING COMPARISON:

Service IPEB – Dated 20030903			VA (~6 Mos. Post-Separation) – Effective 20031108			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Right Wrist Pain/Instability	5299-5003	10%	Right Wrist Instability, Status Post Reconstruction Surgery	5215	10%	20040507
Chronic Left Wrist Pain/Instability	5299-5003	10%	Left Wrist Instability, Status Post Ganglion Cyst Removal	5215	10%	20040507
Left Wrist Ganglion Cyst	Cat II		0% X 1 / Not Service Connected x 1			20040507
Osteoporosis	Not Unfitting					
Osteoarthritis	Not Unfitting					
↓No Additional MEB/PEB Entries↓						
Combined: 20%*			Combined: 20%*			

* Additional VA ratings for the right and left hands added by VARD 20100802 (neuralgia right palm/fingers @30% and left palm and fingers @20%) effective 20080225 (combined 60%); Subsequent right wrist surgery and painful scar ratings were added with additional conditions resulting in a combined 90% rating effective 20120110.

ANALYSIS SUMMARY: The Board acknowledges the CI’s information regarding the significant impairment with which his service-connected conditions continues to burden her; but, must emphasize that the Disability Evaluation System (DES) has neither the role nor the authority to compensate members for anticipated future severity or potential complications of conditions resulting in medical separation. That role and authority is granted by Congress to the Department of Veterans Affairs (DVA), operating under a different set of laws. The Board considers DVA evidence proximate 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 to the Board’s recommendations only to the extent that it reasonably reflects the disability at the time of separation.

Chronic Right and Left Wrist Conditions: All exams and the preponderance of notes in the record addressed both the left and right wrist in the same history and exam. The wrist exams and 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. The CI was right hand dominant. The MEB narrative summary stated the CI injured her right and left wrists in early 1999 and was diagnosed with bilateral wrist instability (right greater than left). As a result of her injury, she had two right wrist surgeries due to instability. Orthopedics then determined that the residual right wrist/ligamentous instability was non-operable. The CI had a left wrist ganglion cyst at the time of the MEB examination, with surgical removal pending. The present condition was described as pain with activities of daily living such as carrying bags, cooking, typing, writing, etc. Right wrist radiographs indicated surgical changes including a widened scapholunate interval and diffuse osteoporosis. Left wrist X-rays were normal, with magnetic resonance imaging (MRI) evidence of left wrist dorsal ganglion cyst. The diagnoses were chronic bilateral wrist pain/instability, left wrist ganglion cyst, osteoarthritis, and osteoporosis. After the MEB NARSUM, the CI underwent left wrist ganglion cyst surgical removal with no complications. The wrist ROM exam at the MEB exam is summarized in the chart below.

Wrist ROM (In degrees)	O.T. ~15 Mos. Pre-Sep		MEB~7 Mos. Pre-Sep		VA C&P ~6 Mos. Post-Sep	
	Right	Left	Right	Left	Right	Left
Dorsiflexion (0-70)	52	60	"Bilateral decreased ROM"		40	45
Palmar Flexion (0-80)	35	52			35	40
Ulnar Deviation (0-45)	30	20			-	-
Radial Deviation (0-20)	30	25			-	-
Comment:	Pain and tenderness		Bilateral tenderness to palpation; + palpable tender mass over right scaphoid		pain, weakness, fatigability, and lack of endurance with repetitive movement of both wrists	
§4.71a Rating	10%	10%	(10%) PEB	(10%)PEB	10%	10%

The VA Compensation and Pension exam indicated the CI had right wrist discomfort with repetitive use, but not at rest. The CI stated that her left wrist was not painful all the time, but would flare with repetitive use. She was treating the flares with occasional non-prescription medication and temporary splinting. There was left wrist pain with lifting items such as cans of soup. X-ray of the right hand/wrist showed no significant interval change from the X-rays cited by the MEB. X-ray of the left hand/wrist was within normal. The diagnosis was bilateral wrist instability with functional impairment. On exam there was evidence of pain, weakness, fatigability, and lack of endurance with repetitive movement of both wrists. The wrist ROM exam is summarized in the table above.

Chronic Right Wrist Pain/Instability. The Board directs attention to its rating recommendation based on the above evidence. The PEB rated the chronic right wrist pain/instability as 5299-5003 (right wrist impairment analogous to arthritis) at 10%. The VA rated the right wrist instability, status post (s/p) reconstruction surgery as 5215 (wrist limitation of motion) at 10%.

The medical record supported right wrist instability and pain s/p two surgeries which resulted in limitation of motion and painful motion of the right wrist. The right wrist instability and pain can be rated as code 5215, with application of VASRD §4.59 (Painful motion) at 10%. Alternative use of code 5299-5003 (wrist impairment analogous to arthritis) with application of VASRD §4.59 (Painful motion) would also result in a rating of 10%. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication of the chronic right wrist pain/instability condition.

Chronic Left Wrist Pain/Instability. The Board directs attention to its rating recommendation based on the above evidence. The PEB rated the chronic left wrist pain/instability as 5299-5003 (left wrist impairment analogous to arthritis) at 10%. The VA rated the left wrist instability, s/p ganglion cyst removal as 5215 (wrist, limitation of motion) at 10%. The medical record supports left wrist instability and pain s/p ganglion surgery which resulted in limitation of motion and painful motion of the left wrist. As with the CI's dominant right wrist, all exams in evidence for the left wrist supported a 10% rating with application of VASRD §4.59 under analogous coding to either 5215 or 5003. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication for the chronic left wrist pain/instability condition.

Contended PEB Conditions. The Board's main charge is to assess the fairness of the PEB's determination that the contended left wrist ganglion cyst, osteoporosis (wrist), and osteoarthritis (wrist) conditions were not unfitting or separately compensable. 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. Regarding the contended left wrist ganglion cyst

condition, there was no evidence of any separately compensable disability to the left wrist pain and instability due to the ganglion cyst removal. The contended left wrist ganglion cyst, osteoporosis (wrist), and osteoarthritis (wrist) conditions were all part of the CIs unfitting left and right wrist pain/instability conditions and any disability from these conditions were considered under the above rating for each wrist. 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 any of the contended conditions and no additional disability ratings are recommended.

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 chronic right wrist pain/instability and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication. In the matter of the chronic left wrist pain/instability and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication. In the matter of the contended left wrist ganglion cyst, osteoporosis (wrist), and osteoarthritis (wrist) conditions, the Board unanimously recommends no change from the PEB determinations 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:

UNFITTING CONDITION	VASRD CODE	RATING
Chronic Right Wrist Pain/ Instability	5299-5003	10%
Chronic Left Wrist Pain/ Instability	5299-5003	10%
	COMBINED (w/ BLF)	20%

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.

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Director
Physical Disability Board of Review

MEMORANDUM FOR DIRECTOR, SECRETARY OF THE NAVY COUNCIL OF REVIEW
BOARDS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATIONS

Ref: (a) DoDI 6040.44
(b) CORB ltr dtd 21 Feb 13

In accordance with reference (a), I have reviewed the cases forwarded by reference (b), and, for the reasons provided in their forwarding memorandum, approve the recommendations of the PDBR that the following individual's records not be corrected to reflect a change in either characterization of separation or in the disability rating previously assigned by the Department of the Navy's Physical Evaluation Board:

- former USN
- former USN
- former USMC
- former USN
- former USMC
- former USN
- former USN
- former USN
- former USMC
- former USMC
- former USMC
- former USMC

xxxx
Assistant General Counsel
(Manpower & Reserve Affairs)