

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX  
CASE NUMBER: PD1200600  
BOARD DATE: 20130125

BRANCH OF SERVICE: ARMY  
SEPARATION DATE: 20030930

**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty, SGT/E-5, (91R/ Veterinary Food Inspector), medically separated for right knee and low back pain (LBP). In 1998, the CI injured his right knee and subsequently underwent arthroscopic repair of a torn anterior cruciate ligament. He also was found to have a herniated disc (HNP) on magnetic resonance imaging (MRI) in 2003 during an evaluation for LBP. Despite duty limitations and physical therapy, neither the right knee nor low back conditions improved 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 MOS Medical Retention Board (MMRB). The MMRB referred to a Medical Evaluation Board (MEB) which determined that each condition was medically unacceptable and forwarded the conditions to the Physical Evaluation Board (PEB) for adjudication. Obesity was also forwarded to the PEB as a medically acceptable condition. The PEB adjudicated the right knee and low back conditions as unfitting, each rated 10%, with application of the Veterans Affairs Schedule for Rating Disabilities (VASRD). The remaining condition was determined to be not unfitting and not ratable. The CI made no appeals and was medically separated with a 20% combined disability rating.

**CI CONTENTION:** "It's getting harder to walk and less hours at work due to pain in back, knees, shoulder."

**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 knee and back conditions, as requested for consideration, meet the criteria prescribed in DoDI 6040.44 for Board purview and are addressed below. The other requested condition, the shoulder, 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 IPEB – Dated 20030519			VA (1.5 Mos. Pre-Separation) – All Effective Date 20030808			
Condition	Code	Rating	Condition	Code	Rating	Exam
R knee limited extension s/p ACL reconstruction	5261	10%	R Knee int derangement	5257	20%	20030813
LBP	5293-5299-5295	10%	R Knee Osteoarthritis	5010	10%	20030813
No entry			DDD Lumbar Spine	5292	10%	20030813
Obesity	Not Unfitting		R Shoulder	5203	10%	20030813
			NO VA ENTRY			

↓No Additional MEB/PEB Entries↓	0% X 1 / Not Service-Connected x 3	20030813
<b>Combined: 20%</b>	<b>Combined: 40%</b>	

**ANALYSIS SUMMARY:**

**Right Knee Condition.** There were two 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 chart below.

Knee ROM	MEB ~6 Mo. Pre-Sep (20030310)		VA C&P ~1.5 Mo. Pre-Sep (20030813)	
	Left	Right	Left	Right
Flexion (140° Normal)	115°	90°		110°
Extension (0° Normal)	0°	10°		0°
Comment	Obese	No instability	NO ROM	Significant varus laxity
§4.71a Rating		10%		10%

On 7 December 1998, the CI injured his right knee playing football. He was noted to have an effusion and thought to have injured his ACL. Conservative management was not sufficient for return to full activities and he underwent arthroscopic repair of the ACL on 24 June 1999. A lateral meniscal tear was also noted and treated. No other pathology, including the collateral ligaments, was noted. He continued to have knee pain. On 4 January 2002, he was noted to have crepitus without atrophy. The ROM was 135 degrees of flexion and (-) five degrees of extension. Testing for meniscal irritation was positive, but the ligaments were intact. An MRI on 9 January 2002 was negative other than for the post-operative changes and osteoarthritis. He was given a brace for possible ACL insufficiency. The MEB physical examination and narrative summary (NARSUM) were accomplished by the same examiner on 10 March 2003, 6 months prior to separation. The CI reported daily pain which restricted running, walking, driving a truck and bending. He was noted to be obese and to wear a knee brace, but to move about the room without difficulty. A surgical scar was noted as was soft tissue swelling. Provocative testing for instability was negative. Toe and heel walk were normal although he was not able to deep knee bend. At the VA Compensation and Pension (C&P) examination, 6 weeks prior to separation, the CI reported constant pain and that he walked with a limp. Significant varus (bowlegged) laxity of the lateral collateral ligament was noted. The anterior drawers test was one mm, but no comment made regarding the other knee. This is most likely a normal test. The test for meniscal irritation was normal. The Board noted the disparity between the finding of varus laxity of the knee on this examination compared to normal ligamentous integrity on the previous examinations in the record. It noted that there was no history of additional injury to explain the deterioration. The Board then reviewed the C&P examination from 22 November 2011, 8 years after separation. This examination was by an orthopedic surgeon. No significant intervening history was documented other than he had needed to decrease his hours from 40-60 to 35-40 hours (assume per week) as a letter carrier. He noted that it sometimes gave way and locked up, but that the last time had been 2 years prior. He was noted to be obese, but to walk without difficulty or use of assistive devices. He was able to cross his knees to 90 degrees while taking off his shoes. There was some crepitus of the right knee with discomfort, but no instability with the cruciate and collateral ligaments intact. The ROM was 0-118 on the right and 0-130 on the left without DeLuca.

The Board directs attention to its rating recommendation based on the above evidence. It noted that the VA rated the right knee for both instability and for osteoarthritis using the codes 5257, internal derangement, and 5010, traumatic osteoarthritis, rated at 20 and 10%, respectively. The PEB coded the knee 5261, limitation of extension, and rated it at 10%. The Board noted that no examination documented collateral ligament laxity other than the C&P examination proximate to separation and that examinations by orthopedic surgeons both before and after separation did not show this laxity. The Board determined that the preponderance of evidence does not support collateral ligament laxity and secondary instability at the time of separation. The Board then considered the different coding options. Provocative testing of the menisci was negative as was testing of the ACL. Limitation of extension was found on the MEB examination, but not on other examinations before or after separation. The preponderance of evidence does not support a limitation in extension at separation. The limitation in flexion did not rise to a compensable level. The Board determined that the most accurate coding option at separation would be for 5010, traumatic arthritis, but that this provided no advantage to the CI as it would only achieve a 10% disability rating. 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 right knee condition.

Low Back Conditions: The record shows one visit for LBP, in 1992, prior to 7 January 2002. At that visit he was noted to have full ROM and thought to have mechanical LBP. There are no other visits for the LBP in evidence. Per the NARSUM, he had an MRI on 2 April 2003 which showed a L5-S1 HNP with a partial tear. The MEB physical examination and narrative summary (NARSUM) were accomplished by the same examiner on 10 March 2003, 6 months prior to separation. The CI was noted to be obese and to move about the room without difficulty. Toe and heel walk were normal and he could forward flex to his mid-thighs. At the C&P examination 6 weeks prior to separation, the CI reported a constant ache in the lower back and that his back “went bad from wear and tear and lifting and exercising.” Deep tendon reflexes (DTR) were normal and provocative testing for nerve root irritation was negative. Measurements of ROM showed reduced flexion, extension, and R/L lateral bending at 85, 20, 20, and 20 degrees. The normal values are 90, 30, 30, and 30 degrees, respectively.

The Board directs attention to its rating recommendation based on the above evidence. The PEB rated the back at 10% using the coding options of 5293, intervertebral disc syndrome, and 5299-5295, analogous to lumbosacral strain. The VA also rated the back at 10%, but used the 5292 code for lumbar limitation of motion. The Board notes that these are older coding options and that the new spine rules took effect 26 September 2003, 4 days prior to separation. The Board accordingly adjudicated this case under the new rules which rely on ROM measurements. The Board considered the different coding options, but with the minimal ROM limitation in evidence and no history of incapacitation, none provided an avenue to a higher rating than the 10% adjudicated by both the PEB and VA. 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 back condition.

Contended PEB Conditions. The contended shoulder condition was not considered in the DES process process and is therefore not within the purview of the Board.

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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. 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 right knee and back conditions 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.

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**RECOMMENDATION:** The Board, therefore, recommends that there be no recharacterization of the CI's disability and separation.

<b>UNFITTING CONDITION</b>	<b>VASRD CODE</b>	<b>RATING</b>
S/P Right Anterior Cruciate Ligament Reconstruction without Residual Instability	5261	10%
Chronic Lower Back Pain with L5-S1 Herniated Nucleus Pulposus	5293 5299-5295	10%
	<b>COMBINED</b>	<b>20%</b>

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The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120606, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

xxxxxxxxxxxxxxxxxxxx, DAF  
Director  
Physical Disability Board of Review

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation  
for xxxxxxxxxxxxxxxx, AR20130002020 (PD201200600)

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

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Deputy Assistant Secretary  
(Army Review Boards)