

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXX  
CASE NUMBER: PD1200672  
BOARD DATE: 20130125

BRANCH OF SERVICE: NAVY  
SEPARATIONDATE: 20020731

**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty PO2/E-5 (BU2/Builder Second Class), medically separated for bilateral carpal instability. The CI could not be adequately rehabilitated to meet the physical requirements of the rating or satisfy physical fitness standards. He was placed on limited duty (LIMDU) and referred for a Medical Evaluation Board (MEB). The MEB forwarded no other conditions for Physical Evaluation Board (PEB) adjudication. On 30 October 2001, the PEB adjudicated bilateral carpal instability as unfitting, rated 10% and 10%, with likely application of the Veterans Affairs Schedule for Rating Disabilities (VASRD). The CI appealed, requesting that he be placed on permanent LIMDU during his wife's pregnancy. This request was granted; however, this necessitated a second exam and PEB which, on 13 June 2002, validated the original decision. The CI was medically separated and released from active duty due to medical disability with a 20% disability rating.

**CI CONTENTION:** "My disability, which I still have, was rated by the VA at 40% as soon as I was discharged. This condition has worsened since I got discharged by the Navy and have been rated at a higher percentage."

**SCOPE OF REVIEW:** The Board's scope of review is defined in DoDI 6040.44, Enclosure 3, paragraph 5.e. (2). It is limited to those conditions determined by the PEB to be unfitting for continued military service and those conditions identified, but not determined to be unfitting by the PEB when specifically requested by the CI. Ratings for unfitting conditions will be reviewed in all cases. The rating for the unfitting bilateral carpal instability condition is addressed below; and, no additional conditions are within the DoDI 6040.44 defined purview of the Board. 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 Naval Records.

**RATING COMPARISON:**

Service IPEB #2 – Dated 20020613			VA (8 Mos. Pre-Separation) – All Effective Date 20020801			
Condition	Code	Rating	Condition	Code	Rating	Exam
Bilateral Carpal Instability	5299-5003	10%	Right Wrist Carpal Instability	8515-5215	10%	20011212
	5299-5003	10%	Left Wrist Carpal Instability	8515-5215	10%	20011212
No Additional MEB/PEB Entries			Right Shoulder Strain	5299-5201	10%	20011212
			Right Hip Strain	5253	10%	20011212
			Tinnitus	6260	10%	20011212
			0% X 2 / Not Service-Connected x 4			20011212
			<b>Combined: 40%</b>			
<b>Combined: 20%</b>						

**ANALYSIS SUMMARY:** The Board acknowledges the sentiment expressed in the CI's application, that he was rated 40% by the VA upon discharge. The Board wishes to clarify that it is subject

to the same laws for disability entitlements as those under which the Disability Evaluation System (DES) operates. 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. However, the Department of Veterans Affairs (DVA), operating under a different set of laws (Title 38, United States Code), is empowered to compensate all service-connected conditions and to periodically reevaluate said conditions for the purpose of adjusting the Veteran's disability rating should the degree of impairment vary over time. The Board utilizes DVA 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. The Board's authority as defined in DoDI 6040.44, however, resides in evaluating the fairness of DES fitness determinations and rating decisions for disability at the time of separation and is limited to conditions adjudicated by the PEB as either unfitting or not unfitting. Post-separation evidence therefore is probative only to the extent that it reasonably reflects the disability and fitness implications at the time of separation.

Bilateral carpal instability Condition. The narrative summary a year prior to separation notes the right hand dominant CI presented with bilateral wrist pain in October 2000 without acute trauma and injury. Multiple falls and a right wrist sporting injury were noted in the CI service treatment record. The CI was initially diagnosed with bilateral wrist sprain and was treated with activity modification and pain medications without relief of pain symptoms. The CI continued to have left greater than right wrist pain with activity. An arthrogram demonstrated bilateral pooling at the scapholunate (SL) and lunotriquetral (LT) spaces. The CI was diagnosed with carpal instability combined (CIC) and underwent a left midcarpal injection and short arm casting. Some pain reduction was documented. A reduction in grip strength was also noted. Examination revealed bilateral tenderness at the SL and LT ligaments, and specific maneuvers for carpal instability were positive bilaterally. Decreased grip strength was present on the left. At the VA Compensation and Pension examination 8 months prior to separation, the CI reported locking and pain in both wrists. The examination documented decreased range-of-motion (ROM) with repetitive motion with 5/5 motor strength and no incoordination of motion. The examiner noted normal wrist range of motion bilaterally in degrees: dorsiflexion to 70, palmar flexion to 80, ulnar deviation to 45, and radial deviation to 20.

The Board directs attention to its rating recommendation based on the above evidence. The PEB rated the bilateral carpal instability at 10% for each hand coded 5299-5003, for a combined 20% rating. The VA coded 8515-5215 the bilateral carpal instability wrist limitation of motion analogous to a mild incomplete medial nerve paralysis and arrived at the same 20% rating recommendation. VASRD §4.71a provides only one code for limited motion at the wrist (5215), which confers a maximum rating of 10% independent of the severity of ROM impairment or extremity dominance. Alternate coding using 5003 criteria for painful non-compensable limitation of motion is supported, but would not yield a higher rating recommendation. 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 bilateral carpal instability 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. 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 carpal instability 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>
Bilateral Carpal Instability	Right	5299-5003	10%
	Left	5299-5003	10%
		<b>COMBINED (w/ BLF)</b>	<b>20%</b>

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The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120608, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

XXXX  
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 08 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:

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

xxxxx  
Assistant General Counsel  
(Manpower & Reserve Affairs)