

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXXXXXXX  
CASE NUMBER: PD1200677  
BOARD DATE: 20130110

BRANCH OF SERVICE: ARMY  
SEPARATION DATE: 20030805

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**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (63B/Light-Wheel Vehicle Mechanic), medically separated for chronic pain, left (non-dominant) thumb, status post (s/p) surgical procedure with neuroma excision. The CI sustained a left thumb crushing injury in August of 2000 when she was changing a tire. After treatment and undergoing two surgeries her chronic left thumb pain condition could not be adequately rehabilitated; therefore, she was unable to meet the physical requirements of her Military Occupational Specialty or satisfy physical fitness standards. She was issued a permanent U3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded left thumb pain, s/p carpometacarpal fracture pinning; and iatrogenic left thumb neuroma conditions to the Physical Evaluation Board (PEB) as not meeting retention standards. The PEB combined both MEB conditions and adjudicated it as chronic pain, left thumb, s/p surgical procedure with neuroma excision condition as unfitting, rated 10% with application of the US Army Physical Disability Agency (USAPDA) pain policy. The CI made no appeals, and was medically separated with a 10% disability rating.

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**CI CONTENTION:** "I think when they did my rating they just did my hand which I have had 2 more surgeries on and I still can not turn my hand over or grip things. Also my depression was bad."

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**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 condition of chronic pain, left (non-dominant) thumb, s/p surgical procedure with neuroma excision as requested for consideration meets the criteria prescribed in DoDI 6040.44 for Board purview; and, is addressed below. The contended depression condition and remaining conditions rated by the VA at separation are 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 PEB – Dated 20030516			VA (1 Mos. Pre-Separation) – All Effective Date 20030806					
Condition	Code	Rating	Condition	Code	Rating	Exam		
Chronic Pain Left (Non-dominant) Thumb S/P Surgical Procedure with Neuroma Excision	5099-5003	10%	Residual of (Non-dominant) Left Thumb Rolando Fracture and Early Basal Joint Arthrosis, Postoperative w/ Degenerative Changes	5228-5003	10%	20030721		
			Localized Damage to Superficial Radial Nerve Left Hand with Painful Motion	8599-5024	10%	20030721		
↓No Additional MEB/PEB Entries↓			Scar, Left-hand Post-operative	7804	0%*	20030721		
			Migraine Headaches	8100	30%	20030723		
			Major Depression	9434	30%*	20030722		
			Right Ankle Sprain	5299-5271	10%	20030723		
			0% X 1 (additional) / Not Service-Connected x 2					
			<b>Combined: 10%</b>			<b>Combined: 60%*</b>		

\* Left hand scar (7804) increased to 10% and Depression (9434) increased to 50% with granted Individual Unemployability effective 20030916 (combined 80%)

**ANALYSIS SUMMARY:** The Board acknowledges the sentiment expressed in the CI’s application regarding her additional hand surgeries, lack of improvement of use of hand, and depression. 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 Veteran 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.

**Chronic Pain, Left (Non-dominant) Thumb, S/P Surgical Procedure with Neuroma Excision Condition.** The MEB narrative summary notes that the CI sustained a crush injury to her left thumb in August 2000. She underwent a limited open reduction internal fixation and application of an external fixator for a left thumb Rolando fracture. The CI continued to report persistent pain at the carpometacarpal joint (CMC-base of thumb) with decreased grip and thumb strength. In July 2001 she underwent a left ligament reconstruction tendon interposition basal joint arthroplasty (and removal of the trapezium bone). Post-operatively she continued to have persistent pain, burning, and hypersensitivity in the left thumb. She was treated with pain medications and occupational therapy desensitization without relief. In October 2002 she underwent a radial neuroma resection. Post-resection she was treated with occupational therapy, but continued to have “significant pain” with decreased grip and thumb strength. At the MEB orthopedic exam 5 months prior to separation, the CI reported decreased sensation at the dorsal aspect of her left thumb with numbness involving her index finger and thumb. The MEB physical exam noted decreased pin prick and light touch sensation over the superficial radial distribution of the left hand, with decreased pinch strength (1 versus 14 pounds), decreased three –jaw grip (1 versus 13 pounds), and decreased grip strength (5 versus 40 pounds). There was limited metacarpophalangeal flexion (30 degrees of normal 55 degrees)

and interphalangeal flexion (50 degrees of normal 90 degrees). Electrodiagnostic study (EMG/NCV) performed 4 months prior to separation, documented incomplete superficial radial neuropathy of the branches that innervate the thumb with significant slowing on testing of the radial nerve to the thumb.

At the VA Compensation and Pension exam performed a month prior to separation, the CI reported decreased sensation, continued weakness, and poor range-of-motion of the left thumb and hand. The exam was significant for pain-limited motion, tenderness to palpation on the radial aspect of the wrist and thumb, and decreased sensation to light touch on the dorsal aspect of the thumb and wrist. The exam also noted Deluca criteria of increased weakness, fatigability, and pain with repetitive use.

At an orthopedic examination, a month after separation, the CI reported continued pain and weakness in the left thumb. The exam noted significant weakness with abducting, numbness and decreased sensation to light touch, and severe tenderness to palpation at the base of the thumb metacarpal. The examiner also noted a 2 cm lack "in opposing her thumb to the base of her small finger." Thenar atrophy was noted on the left when compared to the right. Radiograph demonstrated absent trapezium (wrist bone at base of thumb).

The Board directs attention to its rating recommendation based on the above evidence. Any disability contribution from the surgical scars was considered within the below coding. The PEB rated chronic pain, left (non-dominant) thumb s/p surgical procedure with neuroma excision 10%, coded 5099-5003, IAW USAPDA pain policy. The VA rated the left thumb pain and nerve involvement separately at 10% each; coded 5228-5003, residual of left thumb Rolando fracture and early basal joint arthrosis, postoperative with degenerative changes, and 8599-5042, localized damage to superficial radial nerve left with painful motion respectively (Note: the VA also added a 10% scar (7804) rating based on pre-separation exam, but effective <2 months post separation). All examinations are consistent with limitation of motion and radial neuritis as evidenced by hypersensitivity pain, left hand weakness, thenar atrophy, and sensory loss. Since VASRD §4.71a and §4.124a criteria are met for separate joint and nerve ratings, the Board is pursuing separate ratings for the thumb limitation of motion and radial neuritis s/p surgical procedure with neuroma excision. By precedent the Board's threshold for peripheral nerve rating requires functional motor and/or sensory impairment. The pain and motor components did carry functional impairment with left hand muscle (thenar) atrophy and weakness secondary to pain. The Board adjudged that the disability involved the musculospiral nerve (radial nerve) and involved weakness and pain at the mild to moderate level of the non-dominant hand warranting a 20% disability rating. The left thumb limitation was to "a 2 cm lack," which meets the 0% criteria under code 5228 (With a gap of less than one inch (2.5 cm.) between the thumb pad and the fingers, with the thumb attempting to oppose the fingers." The pain is subsumed in the peripheral nerve code and IAW VASRD §4.14 Avoidance of Pyramiding, could not be used in a rating for painful limitation of motion, especially as the thumb is not considered a major joint IAW VASRD criteria. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board recommends a rating of 20% for left (non-dominant) thumb, s/p surgical procedure with neuroma excision (radial nerve), coded 8699-8514 IAW VASRD §4.124a and a rating of 0% for left (non-dominant) thumb, s/p surgical procedure non-compensable thumb, limitation of motion, coded 5228 IAW VASRD §4.71a, for a combined 20% rating.

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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. As discussed above, PEB reliance on the USAPDA pain policy for rating left thumb conditions was operant in this case

and the condition was adjudicated independently of that policy by the Board. In the matter of the chronic pain, left (non-dominant) thumb, s/p surgical procedure with neuroma excision condition, the Board by a vote of 2:1 recommends a disability rating of 20% coded 8699-8514 IAW VASRD §4.124a and thumb, limitation of motion, coded 5228 rated 0% IAW VASRD §4.71a, for a combined 20% rating. The single voter for dissent (who recommended a rating of 30%) did not submit a minority opinion. There were no other conditions within the Board's scope of review for consideration.

**RECOMMENDATION:** The Board recommends that the CI's prior determination be modified as follows; effective as of the date of her prior medical separation:

<b>UNFITTING CONDITION</b>	<b>VASRD CODE</b>	<b>RATING</b>
Left (Non-dominant) Thumb, Limitation of Motion S/P Surgical Procedure with Neuroma Excision	5228	0%
Left Thumb, S/P Surgical Procedure with Neuroma Excision (Radial Nerve)	8699-8514	20%
	<b>COMBINED</b>	<b>20%</b>

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120607, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXXXXXXXXXX, DAF  
 President  
 Physical Disability Board of Review

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation  
 for XXXXXXXXXXX, AR20130001358 (PD201200677)

1. 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 to modify the individual's disability rating to 20% without recharacterization of the individual's separation. This decision is final.

2. I direct that all the Department of the Army records of the individual concerned be corrected accordingly no later than 120 days from the date of this memorandum.

3. I request that a copy of the corrections and any related correspondence be provided to the individual concerned, counsel (if any), any Members of Congress who have shown interest, and to the Army Review Boards Agency with a copy of this memorandum without enclosures.

BY ORDER OF THE SECRETARY OF THE ARMY:

Encl

XXXXXXXXXX  
Deputy Assistant Secretary  
(Army Review Boards)

CF:  
 DoD PDBR  
 DVA