

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXX
CASE NUMBER: PD1200688
BOARD DATE: 20130116

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20030124

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty PV2/E-2 (11B10/Infantryman), medically separated for chronic pain of the left knee due to medial meniscus tear status post (s/p) repair. He had a left knee injury in January 2002 with multiple re-injuries, and he had an elective arthroscopy with a medial meniscal tear repair June 2002. He was re-injured with continued meniscal tear, and continued to have locking episodes with pain; he declined additional surgery. The CI could not be adequately rehabilitated to meet the physical requirements of his Military Occupational Specialty or satisfy physical fitness standards. He was issued a permanent L3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded no other conditions for Physical Evaluation Board (PEB) adjudication. The PEB adjudicated the left knee condition as unfitting, rated 10% with cited 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.

CI CONTENTION: "Rating of 10% for left knee should change due to the following: left knee arthritis, instability, meniscus tear, strain on the anterior cruciate ligament, pain and limited flexion motion."

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 unfitting left knee condition as requested for consideration meets the criteria prescribed in DoDI 6040.44 for Board purview; and, is addressed below. 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 20021113			VA (3 Mos. Post-Separation) – All Effective Date 20030125			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Lt Knee Pain	5099-5003	10%	S/P Arthroscopic Repair, Lt Knee	5260-5010	10%	20030506
↓No Additional MEB/PEB Entries↓			Not Service-Connected x 1			
Combined: 10%			Combined: 10%*			

* Temporary (convalescent) 100% L knee rating from 20080429-20080801.

ANALYSIS SUMMARY:

Left Knee Condition. The CI underwent left knee medial meniscus tear surgical repair 7 months prior to separation. He continued to complain of left knee pain and swelling, and 4 weeks after surgery, he re-injured his knee. He had another magnetic resonance imaging exam that

showed continued meniscus tear. The 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.

Left Knee ROM	PT ~5 Mo. Pre-Sep	MEB ~3 Mo. Pre-Sep	VA C&P ~3 Mo. Post-Sep
Flexion (140° Normal)	"AROM -10→125°"	130°	130°
Extension (0° Normal)		0°	0°
Comment: Surgery 7 Mo. Pre-Sep	+ swelling; + crepitus; tender (12 wks s/p surgery)	Positive effusion; antalgic gait; tender, +McMurray's (see text)	Painful motion; tender; -McMurray's; no swelling (see text)
\$4.71a Rating	10%	10%	10%

The MEB narrative summary (NARSUM), 3 months prior to separation, noted the CI denied locking or giving-out. On examination there was a positive McMurray (meniscus pain). There was no instability. The examiner stated "He has an antalgic gait" (painful limp)," and effusion was noted. At the VA Compensation and Pension (C&P) exam, 3 months after separation, the CI reported knee pain when walking, stair climbing or when running, with swelling afterwards. He complained of intermittent sharp medial knee pain. The examiner recorded that the knees did not lock or give away. The physical examination is summarized above in addition to the findings of tenderness to palpitation of the medial joint line in the left knee. The McMurray test for meniscus signs was negative. There was no evidence of instability. Diagnosis was left knee meniscal tear with s/p arthroscopic repair and right knee pain, no instability or knee pathology found.

The Board directs attention to its rating recommendation based on the above evidence. The PEB rated the knee condition as 5099-5003 at 10% for pain "rated as slight /constant." The VA rated 10% under 5010 for painful motion and tenderness. The Board noted that the near normal ROM was non-compensable under VASRD diagnostic codes for limitation of motion. There were no objective findings of instability to warrant consideration under 5257 (instability). The CI had evidence of painful motion and was symptomatic s/p meniscus surgery supporting a 10% rating with application of VASRD §4.59, §4.40 or using code 5259 (cartilage, semilunar, removal, symptomatic).

Finally, the Board considered the 5258 code for "semilunar, dislocated, with frequent episodes of "locking", pain, and effusion into the joint." The treatment notes recorded several episodes of effusion, but no evidence of a dislocated meniscus or record of mechanical locking or giving way post surgery. The NARSUM noted no locking and the C&P exam reported negative McMurray and no locking. All board members agreed the effusion described in the NARSUM and the episodes of knee locking reported in the service treatment record entries was insufficient evidence to support a 20% rating under this code. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board recommends no change in the PEB adjudication.

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 the left knee condition was operant in this case and the condition was adjudicated independently of that policy by the Board. In the matter of the chronic left knee pain condition 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:

UNFITTING CONDITION	VASRD CODE	RATING
Chronic Lt Knee Pain	5099-5003	10%
	COMBINED	10%

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

XXXXXXXXXXXXXXXXXX, DAF
President
Physical Disability Board of Review

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation for
XXXXXXXXXXXXXXXXXX, AR20130001399 (PD201200688)

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

XXXXXXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
() DoD PDBR
() DVA

