

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX
CASE NUMBER: PD1200697
BOARD DATE: 20130111

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20031130

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was a National Guard SPC/E-4 (31K10/Combat Signaler), medically separated for “chronic right ankle pain with loss of subtalar joint motion secondary to fracture of the talus (26 Jul 02), and subsequent deep aseptic necrosis of talus.” The CI fell off a ladder July 2002 and sustained a right ankle fracture. After cast removal, the CI continued to complain of pain and swelling. He was treated with bracing, physical therapy (PT), and steroid injections without relief. The chronic right ankle pain condition could not be adequately rehabilitated. The CI did not improve adequately with treatment 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 chronic right ankle pain condition as unfitting, rated 10%, with application of the Veterans Affairs Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 10% rating.

CI CONTENTION: “My PTSD symptoms are getting worse—nightmares, flashbacks every other day, hypervigilance, irritability. Ankle injury has worsened also.”

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 right ankle condition as requested for consideration meets the criteria prescribed in DoDI 6040.44 for Board purview; and, is addressed below. The other requested condition (Posttraumatic Stress Disorder) 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 of Correction of Military Records.

RATING COMPARISON:

Service IPEB – Dated 20030620			VA (~7 Mos. Post-Separation) – All Effective Date 20031201			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Right Ankle Pain	5099-5003	10%	Right Talus Fracture	5271	20%	20040621
↓No Additional MEB/PEB Entries↓			0% X 3			
Combined: 10%			Combined: 20%			

* VA “not service connected” conditions and pension conditions are not charted.

ANALYSIS SUMMARY

Chronic Right Ankle Pain Condition. The narrative summary (NARSUM) notes the CI sustained a right avulsion fracture of the right fibula in July 2002 after falling from a ladder. After removal

of the cast, he continued to have right ankle pain and swelling. He was treated with PT and steroid injection without pain relief. Magnetic resonance imaging performed in January 2003 showed mid-talus avascular necrosis, and surgical intervention was not recommended. 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.

Right Ankle ROM	MEB ~7 Mos. Pre-Sep*	VA C&P ~7 Mos. Post-Sep
Dorsiflexion (0-20°)	0°	10°
Plantar Flexion (0-45°)	10°	30°
Comment	Antalgic gait; significant pain, 1+ nonpitting edema, no inversion or eversion, he has an immobile subtalar joint (see text)*	Antalgic gait, +tenderness, +DeLuca
§4.71a Rating	20%	20%

* Source orthopedic NARSUM (see text for ROM discussion)

At the MEB exam 7 months prior to separation, the CI reported persistent right ankle pain. The MEB physical exam noted an immobile subtalar joint with significant tenderness to palpation over the dorsal aspect of the ankle with 1+ pitting edema. The ankle ROMs were stated as “ankle shows ROM, he gets approx 90 degrees of dorsiflexion and approx 10 degrees further plantar flexion to 100 degrees. Total ROM in flexion is 90 to 100 degrees. He has no inversion, no eversion and he has an immobile subtalar joint as well.” The exam is summarized in the table above. At the VA Compensation and Pension exam 7 months after separation, the CI reported use of an ankle brace with daily pain with weight bearing, weakness, and swelling. The VA exam noted an antalgic gait, tenderness over the lateral aspect of the right ankle with pain on motion. The ROM is charted above and there was “additional functional limitations due to pain.” Additional VA exams remote from separation indicated worsening of the ankle condition with a 20% rating being maintained.

The Board directs attention to its rating recommendation based on the above evidence. The PEB coded the right ankle condition as 5099 analogous to 5003 Arthritis, degenerative (hypertrophic or osteoarthritis) rated 10%. The PEB disability description indicated “Dorsi and plantar flexion are well maintained,” however, this was not substantiated by any exam or treatment note in the record. It is very likely that the non-standard ROM measurement in the orthopedic NARSUM was read as a 90 degrees dorsiflexion (normal 20 degrees), which is not anatomically possible. Evaluation of the exam indicated 0 degrees dorsiflexion and 10 degrees plantar flexion, IAW VASRD measurement protocols as summarized in the chart above. The VA coded this condition 5271 Ankle, limited motion of: Marked and rated 20%. All exams in evidence supported a 20% rating with limitation of plantar flexion and dorsiflexion, loss of eversion and inversion secondary to subtalar joint fusion, an antalgic gait, tenderness to palpation, and pain limitation with repetitive use. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board recommends a disability rating of 20% for the chronic right ankle pain condition.

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 ankle pain condition, the Board unanimously recommends a disability rating of 20%, coded 5299-5271 IAW VASRD §4.71a. 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 his prior medical separation:

UNFITTING CONDITION	VASRD CODE	RATING
Chronic right ankle pain with loss of subtalar joint motion	5299-5271	20%
	COMBINED	20%

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

XXXXXXXXXXXX, DAF
President
Physical Disability Board of Review

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 XXXXXXXXXXXXXXX, AR20130001396 (PD201200697)

1. I have reviewed the enclosed Department of Defense Physical Disability Board of Review (DoD PD BR) 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

XXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
 DoD PDBR
 DVA