

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX  
CASE NUMBER: PD1200729  
BOARD DATE: 20130115

BRANCH OF SERVICE: ARMY  
SEPARATION DATE: 20021204

**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty PFC/E-3 (11B10/Infantry), medically separated for chronic right knee pain. The CI injured his right knee when he fell down a gulch during a live fire exercise while at Schofield Barracks. Despite the use of a Cho-Pat knee strap, compression wraps, physical therapy (PT), orthopedics evaluation, and occasional medications, the CI failed to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. The CI was issued a permanent L3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded right patella chondromalacia to the Physical Evaluation Board (PEB). The MEB also forwarded left shoulder pain as meets retention standards. The PEB adjudicated the chronic right knee pain condition as unfitting, rated 0%, with application of the Veteran’s Affairs Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 0% disability rating.

**CI CONTENTION:** “I had a 2<sup>nd</sup> catscan showing more tears. Continuation of pain and popping in knee.”

**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. Any condition 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 20020924			VA (~31 Mos. Post-Separation) – All Effective Date 20050331*			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Right Knee Pain	5099-5003	0%	Partial Meniscectomy, R Knee	5010-5260	10%**	20050713
Left Shoulder Pain	Not Unfitting		No VA Entry			
<b>Combined: 0%</b>			<b>Combined: 10%</b>			

\*Effective date 20050331 because VA claim was received more than one year following discharge from military service.

\*\* No change to 10% right knee rating

**ANALYSIS SUMMARY:** The Board evaluates VA evidence proximal to separation in arriving at its recommendations, but its authority resides in evaluating the fairness of Disability Evaluation System (DES) fitness decisions and rating determinations for disability at the time of separation. 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. The Department of Veterans Affairs (DVA), however, is empowered to compensate service-connected conditions and to periodically

re-evaluate said conditions for the purpose of adjusting the Veteran’s disability rating should the degree of impairment vary over time.

Chronic Right Knee Pain Condition. There were three 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.

Right Knee ROM	PT ~4 Mo. Pre-Sep	MEB-Ortho ~4 Mo. Pre-Sep	VA C&P ~31 Mo. Post-Sep
Flexion (140° Normal)	110	120	Full ROM without pain
Extension (0° Normal)	0	0	Full ROM without pain
Comment	Moderate antalgic gait; pain inferior retropatellar region	ROM measured with goniometer; tenderness to palpation of the medial patella; no effusion; + patellar grind; stable ligaments; no joint line tenderness	Gait normal; very slight anterior crepitus palpable during extreme extension; no redness, swelling, or deformity; stable in all planes
§4.71a Rating	10%	10%	10%

The CI’s right knee condition was well documented in the service treatment record (STR) from December 2001 through August 2002. Magnetic resonance imaging (MRI) in March 2002 documented chondromalacia of the lateral facet and a medial meniscal tear in the right knee. A right knee arthroscopy with partial meniscectomy was done in May 2002, approximately 7 months prior to separation. Intraoperative findings included Grade II to III chondromalacia of the patellar cartilage and the lateral facet and grade II chondromalacia of the trochlea as well as a delineated radial tear of the posterior horn of the medial meniscus. The STR notes documented pain, locking and popping with activity continued after the arthroscopy. The commander’s statement documented that the CI was unable to perform the duties expected of all infantry soldiers and regular physical training due to the chronic pain in his knee from any activity. Four months prior to separation, PT documented the right knee pain had remained unchanged after the arthroscopic surgery. The PT physical exam findings are summarized in the chart above. The MEB physical recorded on a DD Form 2808 approximately 5 months prior to separation noted right knee pain with flexion and extension. The MEB narrative summary (NARSUM) examination dictated 4 months prior to separation by orthopedics indicated that the right knee had been recalcitrant to all therapy and the CI had persistent severe right knee pain with any kind of activity. A right knee X-ray was noted to be essentially normal with some possible areas of early arthritis. There was no subsequent MRI or plain X-ray after the arthroscopy or at the time of the MEB exam. The MEB NARSUM physical exam findings are summarized in the chart above. The VA Compensation & Pension (C&P) examination completed approximately 31 months after separation indicated that the CI complained of pain with running and a catching sensation during cold weather that was brief and self-limited. The examiner did note that the CI was able to run five miles twice weekly and could walk without limits. The CI was employed as a police officer at the time of the exam and was able to accomplish all required tasks, but had some pain with running and other strenuous ambulatory activities. The examiner further documented X-ray findings of minimal anterior compartment osteoarthritic changes. The C&P physical exam findings are summarized in the chart above. The C&P exam performed in June 2007 over 4 years after separation referenced an MRI exam that was done in December 2006 that showed a new tear of the medial meniscus without any new abnormalities. The examiner did not indicate any further interventions were required.

The Board directs attention to its rating recommendation based on the above evidence. The PEB coded the chronic right knee pain analogous to 5003 arthritis, degenerative (hypertrophic or osteoarthritis) and rated 0% stating full active ROM and lack of joint instability. The VA coded the partial meniscectomy, right knee condition 5010 arthritis, due to trauma,

substantiated by X-ray findings with 5260 leg, limitation of flexion: flexion limited to 45 degrees rated as 10%. No exam indicated limited ROM to a compensable degree absent application of §4.59 painful motion. VASRD§4.71a specifies for 5003 that “satisfactory evidence of painful motion” constitutes limitation of motion and specifies application of a 10% rating “for each such major joint or group of minor joints affected by limitation of motion.” The C&P examination was 31 months after separation and therefore the Board adjudged the examination to have a lower probative value. The Board considered that there was a preponderance of evidence for pain-limited ROM in the STR, in the commander’s statement, and at the MEB NARSUM examination. The Board adjudged that there was consistent evidence that the CI had painful motion of the right knee and IAW VASRD §4.59 warrants “at least the minimum compensable rating for the joint.” After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a disability rating of 10% for the chronic right knee 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 knee pain condition, the Board unanimously recommends a disability rating of 10%, coded 5099-5003 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:

<b>UNFITTING CONDITION</b>	<b>VASRD CODE</b>	<b>RATING</b>
Chronic Right Knee Pain	5099-5003	10%
	<b>COMBINED</b>	<b>10%</b>

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 / XXXXXXXX), 2900 Crystal Drive, Suite 300, Arlington, VA 22202-3557

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation  
for XXXXXXXXXXXXXXXXXXXX, AR20130001634 (PD201200729)

1. I have reviewed the enclosed Department of Defense Physical Disability Board of Review (DoD PDDBR) 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 10% 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 PDDBR  
( ) DVA