

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX
CASE NUMBER: PD1200872
BOARD DATE: 20130102

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20011231

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SGT/E-5 (92Y2P/Supply Specialist), medically separated for pain and loss of motion left ankle. The CI inverted his foot forcibly during airborne operations at Fort Greely, received splinting on the drop zone, and was Medevac'd to Bassett Army Hospital. The CI was diagnosed with a fracture of the left fibula and disruption of the ankle joint and he underwent open reduction internal fixation (ORIF) surgery. Despite left ankle immobilization, a second surgery to remove the compression screw, a third surgery for partial excision of a peroneal neuroma, pain medication and physical therapy (PT); the CI failed 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 status post (s/p) left ankle fracture, ORIF with superficial peroneal nerve neuroma removal to the Physical Evaluation Board (PEB). Occasional low back pain condition, identified in the rating chart below, was also identified and forwarded by the MEB. The PEB adjudicated pain and loss of motion left ankle condition as unfitting rated 10% with probable application of the Veterans Affairs Schedule for Rating Disabilities (VASRD). The remaining condition was determined to be not unfitting and therefore not ratable. The CI made no appeals, and he was medically separated with a 10% disability rating.

CI CONTENTION: The CI elaborated no specific contention in his application.

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 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 20011012			VA (3 Mos. Post-Separation) – All Effective Date 20020101			
Condition	Code	Rating	Condition	Code	Rating	Exam
Pain and Loss Motion Left Ankle after Fibular Fracture	5099-5010	10%	Degenerative Joint Disease, Left Ankle Associated with Fracture, Left Tibia and Fibula	5010-5271	20%	20020411
Occasional Low Back Pain	Not Unfitting		Degenerative Disc Disease with Degenerative Arthritis Lumbar Spine	5010-5293	10%	20020411
↓No Additional MEB/PEB Entries↓			Right Hand Strain	5024	10%	20020411
			Left Hand Strain	5024	10%	20020411
			0% X 1 / Not Service-Connected x 1			20020411
Combined: 10%			Combined: 40% (Bilateral Factor 1.9)			

ANALYSIS SUMMARY: The Board's authority as defined in DoDI 6040.44, resides in evaluating the fairness of Disability Evaluation System fitness determinations and rating decisions for

disability at the time of separation. The Board utilizes VA 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. Post-separation evidence is probative only to the extent that it reasonably reflects the disability and fitness implications at the time of separation.

Left Ankle Condition. There were two 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.

Left Ankle ROM	MEB SF 88 ~5 Mo. Pre-Sep	PT ~3 Mo. Pre-Sep	VA C&P ~4 Mo. Post-Sep
Dorsiflexion (0-20°)	5°	20° (18)	5°
Plantar Flexion (0-45°)	20°	45° (44)	15°
Inversion (35°)*		5°	
Eversion (25°)*		0°	
Comment	Surgical scars and decreased ROM; x-ray: retained hardware-fibular plate	Severe loss of inversion/eversion	Pain on all ROM stresses; stable; medial/lateral scars on distal left leg well healed not bound to underlying tissue but painful in medial aspect to manipulation
§4.71a Rating			
5262	20%	20%	20%
5271	20%	10%	20%

* http://osteoarthritis.about.com/od/osteoarthritisdiagnosis/a/range_of_motion.htm

The CI underwent an ORIF to repair the fracture of the left tibia with disruption of the ankle joint in March 2000. Post-operatively, the CI wore a splint for immobilization for 2 weeks, a cast for 4 weeks and then he was referred for PT. He had a failed response to PT as the pain continued and in May 2000, the CI underwent removal of the compression (syndemosis) screw. The CI did not show any pain reduction or progress in his rehabilitation and was subsequently also diagnosed with a peroneal neuroma. He underwent a partial peroneal neuroma excision with peroneal nerve superficial branch nerve transposition in January 2001. The CI again attempted PT but there was no resolution of his pain or limitation of movement. Orthopedics determined that the CI would not benefit from further surgery and the CI was referred for MEB. The MEB exam recorded on the SF Form 88 and completed approximately 5 months prior to separation noted continued pain and weakness of the left ankle. It included ROM measurements that appear to have been measured downward from the vertical axis, instead of from the horizontal axis as is normally done. The MEB narrative summary (NARSUM) completely approximately 4 months prior to separation did not include any specific physical findings but referred to the MEB SF Form 88 and an attached a formal ROM testing report. However, the only ROM measurements available in the record were completed by physical therapy in October 2001 and these are recorded in the chart above. The NARSUM indicated that the CI complained of constant aching in the left ankle, swelling and stiffening when he was on his feet too much, an inability to run, jump, or perform sit-ups; he could only tolerate limited walking with frequent breaks every 1-200 meters due to pain. The examiner opined that the CI could not function in a specialty that required him to be on his feet a majority of the time nor was there an expectation that his condition would improve with further therapy or surgery. The service treatment record also contains ROM measurements from March 2001 with dorsiflexion of 15 degrees and plantar flexion of 50 degrees and more remotely from August 2000 with dorsiflexion of 15 degrees and plantar flexion of 40 degrees. The left ankle dorsiflexion appears to have been consistently and significantly limited over time. The PT ROM from October 2001 appears to be different from all other measurements both before and after. The VA Compensation & Pension (C&P) examination performed 4 months after separation noted chronic left ankle pain and a left ankle X-ray demonstrated post-traumatic degenerative

joint disease. The C&P physical exam findings are summarized in the chart above. The ROM measured by the C&P exam is more consistent with the more limited ROM recorded in the rest of the record than with the PT ROM from October 2001.

The Board directs attention to its rating recommendation based on the above evidence. The PEB coded the pain and loss of motion left ankle as analogous to 5010 arthritis, due to trauma, substantiated by X-ray findings and rated 10%. The VA used a hyphenated code 5010 (Arthritis, due to trauma, substantiated by X-ray findings) - 5271 (Ankle, limited motion of). The VA determined this was a marked limitation of motion and assigned a 20% rating. The Board considered that the CI's primary disability was pain, loss of motion in the left ankle as evidenced by PT documentation of "severe loss of inversion (foot turned inward) and eversion (foot turned outward)." The NARSUM clearly documented constant pain, swelling, and stiffening of the left ankle, an inability to walk more than 1-200 meters without frequent breaks due to pain, and intolerance to running, jumping, and sit-ups due to pain. At the VA exam the ROM's showed more limited of the dorsiflexion and plantar flexion that was consistent with all of the CI's recorded ROMs other than the measurements from PT in October 2001. The examiner did not measure inversion or eversion. The Board agreed that the preponderance of evidence documented a moderate ankle disability overall. VASRD 5262 tibia and fibula, impairment of with moderate ankle disability most accurately describes the CI's disability picture. 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 left ankle disability after fibular fracture condition coded 5262.

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 left ankle condition, the Board unanimously recommends a disability rating of 20%, coded 5262 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
Left Ankle Disability after Fibular Fracture	5262	20%
	COMBINED	20%

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20120609, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXXXXXXXXXXXXXXXXX, DAF
Director
Physical Disability Board of Review

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation
for XXXXXXXXXXXXXXXXXXXX, AR20130002540 (PD201200872)

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

XXXXXXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)