

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XX  
CASE NUMBER: PD1200874  
BOARD DATE: 20130220

BRANCH OF SERVICE: MARINE CORPS  
SEPARATION DATE: 20030131

**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty PFC/E-2 (1371/Basic Combat Engineer), medically separated for osteochondritis desiccans Grade II to III with articular and cortical bone defect of the right ankle. Despite limited duty (LIMDU) and physical therapy (PT) he could not be adequately rehabilitated to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was placed on LIMDU and referred for a Medical Evaluation Board (MEB). Avascular necrosis condition, identified in the rating chart below, was also identified and forwarded by the MEB. The Physical Evaluation Board (PEB) adjudicated the right ankle condition as unfitting, rated 10% with application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD). The remaining condition was determined to be Category II, a condition that contributes to the unfit condition. The CI made no appeals and 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 Board for Correction of Naval Records.

**RATING COMPARISON:**

Service IPEB – Dated 20021125			VA (2 Mos. Post-Separation) – All Effective Date 20030201			
Condition	Code	Rating	Condition	Code	Rating	Exam
Osteochondritis Desiccans w/ Articular & Cortical Bone Defect	5271	10%	Residuals Fracture, Rt Ankle w Degenerative Disease	5271	10%*	20030409
Avascular Necrosis	Category II		No Corresponding VA Entry			
No Additional MEB/PEB Entries			4 Other Conditions			20030409
<b>Combined: 10%</b>			<b>Combined: 50%*</b>			

\*Original VARD rated the condition as Residual Cortical Deformity of the Posterior Malleolus and Posttraumatic Calcification in the Lower Interosseous Membrane, Rt Ankle coded 5299-5271 at 0% also with a combined rating or 0%. VARD dated 20040311 resulted in the right ankle rating and coding noted above. Four other previously not service connected conditions were added at 10% ratings each retroactive to date of separation, resulting in the 50% combined rating.

## ANALYSIS SUMMARY:

Right Ankle Condition. The MEB narrative summary (NARSUM) reported that the CI injured his right ankle on 1 March 2002 during basic training. Initial X-ray examinations were normal. The CI was on a brief period of limited duty for treatment. He completed training but continued to complain of pain. While on leave, an X-ray performed six or more weeks after the injury demonstrated evidence of a healing fracture with copious callous formation of the distal tibia (shin bone) at the ankle. Repeat X-ray of the right ankle on 19 July 2002 at the CI's next duty station confirmed a healing fracture of the distal lateral tibia. The CI was placed on LIMDU for several weeks but continued to experience pain. A bone scan of the right ankle on 13 August 2002 revealed injury to right distal tibia metaphysis, at the level of the posterior malleolus. Magnetic resonance imaging (MRI) on 16 September 2002 revealed a Grade II to III osteochondritis dissecans to the posterior malleolus over the right ankle with articular and cortical bone defect (avascular necrosis). There were cystic changes and fairly extensive bone marrow edema. The MEB physical exam on 27 September 2002, 4 months prior to separation, noted unspecified decreased range of motion with plantar flexion and tenderness to palpation (TTP) of the posterior aspect of the distal lateral right tibia. The exam was noted to be otherwise noncontributory. At the VA Compensation and Pension (C&P) examination on 9 April 2003, 2 months after separation, the CI reported having difficulty walking long distances, climbing stairs, shopping, and mowing the lawn. He was working as a scrub nurse technician and denied occupational limitations. The examiner noted that the CI had normal posture and gait. There was no evidence of callosity, breakdown, weight-bearing line, or tenderness. The CI was not using an assistive device. The right dorsiflexion range-of-motion (ROM) was 20 degrees and plantar flexion was 45 degrees, both within normal limits. The examiner noted that the CI was without pain on ROM testing. The examiner also noted the left leg was a centimeter longer than the right. X-ray examination of the right ankle on 9 April 2003 revealed post traumatic calcification within the lower interosseous membrane and evidence of an old injury of posterior malleolus but without post traumatic arthritic change, osteochondritis, joint effusion or other signs of instability.

The Board directs attention to its rating recommendation based on the above evidence. The PEB rated the ankle condition using the code 5271, limited motion of ankle with 10% disability. The VA initially used an analogous coding, 5299-5271 with a 0% disability, but on appeal rated the ankle 10% based on painful motion IAW VASRD §4.59 (coded 5271). The Board considered alternative VASRD ankle and analogous codes, but all were less applicable and not advantageous to rating. The Board considered VASRD code 5262, impairment of tibia and fibula and agreed that there was no evidence to support rating higher than a 10%. The Board also considered the use of code 5275, for shortening of the lower extremity, however the non-affected leg was shorter and the discrepancy would not attain a minimum rating. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication for the right ankle condition.

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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. 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 right ankle condition and IAW VASRD §4.71a, 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:

<b>UNFITTING CONDITION</b>	<b>VASRD CODE</b>	<b>RATING</b>
Osteochondritis Desiccans grade II to III w/ Articular & Cortical Bone Defect Right Ankle	5271	10%
	<b>COMBINED</b>	<b>10%</b>

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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

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Acting Director  
Physical Disability Board of Review

MEMORANDUM FOR DIRECTOR, SECRETARY OF THE NAVY COUNCIL OF REVIEW  
BOARDS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATIONS

Ref: (a) DoDI 6040.44  
(b) CORB ltr dtd 22 Mar 13

In accordance with reference (a), I have reviewed the cases forwarded by reference (b), and, for the reasons provided in their forwarding memorandum, approve the recommendations of the PDBR that the following individual's records not be corrected to reflect a change in either characterization of separation or in the disability rating previously assigned by the Department of the Navy's Physical Evaluation Board:

- former USMC
- former USN
- former USMC
- former USMC
- former USN
- former USMC
- former USMC

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Assistant General Counsel  
(Manpower & Reserve Affairs)