

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXXXX  
CASE NUMBER: PD1201103  
BOARD DATE: 20130206

BRANCH OF SERVICE: ARMY  
SEPARATION DATE: 20030327

**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SGT/E-5 (92A/Automated Logistical Specialist), medically separated for right knee pain status post (s/p) anterior cruciate ligament (ACL) reconstruction. The CI initially injured his right knee playing soccer in August of 2001. He underwent two surgeries and was in the midst of the rehabilitation phase following his second surgery when the Army determined that he could no longer 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 right knee pain condition as unfitting, rated 10% with application of the US Army Physical Disability Agency (USAPDA) pain policy. The CI made no appeals, and he was medically separated with a 10% disability rating.

**CI CONTENTION:** "Rating of 10% for right knee should have been higher. Rating of 0% for ankles should have been higher."

**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 rated condition, right knee pain (s/p) ACL reconstruction, as requested for consideration is the only condition that 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 PEB – Dated 20030106			VA (3 Mos. Post-Separation) – All Effective Date 20030328			
Condition	Code	Rating	Condition	Code	Rating	Exam
Right Knee Pain S/P ACL Reconstruction	5099-5003	10%	Right Knee ACL Tear S/P Surgery with Osteoarthritis	5010-5257*	10%	20030604
↓No Additional MEB/PEB Entries↓			0% X 1 / Not Service-Connected x 2			
<b>Combined: 10%</b>			<b>Combined: 10%**</b>			

\*VARD dated 20090923 changed the code to 5010-5260 but the rating remained at 10%.

\*\*Combined rating increased to 30% effective 20090318 when the 0% rating for Right ankle sprain was increased to 10% and a 10% rating was added for left ankle sprain.

**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.

**Right Knee Pain Status Post (S/P) Anterior Cruciate Ligament Reconstruction Condition.** 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 Knee ROM	NARSUM ~3 Mo. Pre-Sep	VA C&P ~2 Mo. Post-Sep
Flexion (140° Normal)	135°	140° (Mild pain at 140)
Extension (0° Normal)	0°	70°
Comment	Stable Lachman’s; negative posterior drawer; surgical incisions well-healed	No limp; mild patella motion tenderness, mild lateral displacement; negative drawer sign; McMurray is mildly positive; no fatigability or decrease ROM with repeated motion; well-healed surgical scars; neurologic exam was normal
§4.71a Rating	10%	10%

The narrative summary (NARSUM) noted that the CI had a twisting injury in 2001 that resulted in immediate effusion and an inability to continue to play. In October 2001, he underwent right knee arthroscopy for a partial lateral meniscectomy and ACL stump debridement. The CI continued to have instability and pain and was unable to extend his knee completely. His Lachman’s test was 2+. In September 2002, he underwent an arthroscopic right knee ACL reconstruction. At the NARSUM exam during his 3rd month of rehabilitation, the CI reported frequent, slight right knee pain and instability. The NARSUM physical exam findings are noted in the chart above. The MEB examination recorded on the DD Form 2808 approximately a week earlier noted lateral joint line tenderness. The examiner opined that the CI was “rehabilitating as well as can be expected following major reconstruction.” Pre- and post-operative X-rays were unremarkable with standard screws for ACL reconstruction noted in the post-operative exams. The commander’s statement, completed 3 months prior to separation, reported that the CI was unable to lift heavy equipment, to perform running and field-training exercises, or to deploy in the rapid response contingency unit. At the VA Compensation and Pension exam performed 2 months after separation, the CI reported pain with moderate flare-ups, exacerbated by running and prolonged walking or standing, which lasted up to 4 hours. He reported his right knee was not as stable and it would occasionally lock. He would occasionally use a knee brace, depending on his activity. Physical exam findings are noted in the chart above. The examiner opined that with an acute flare-up of the CI’s knee pain, there was “about 25% reduction of flexion.” Knee X-rays from June 2003 demonstrated surgical changes, minor osteophyte formation, and preservation of intra-articular spaces.

The Board directs attention to its rating recommendation based on the above evidence. The PEB assigned a 10% rating under an analogous 5003 code (degenerative arthritis), based on the USAPDA pain policy. The VA assigned a 10% rating for 5010 (traumatic arthritis)-5257 (knee, other impairment of: recurrent lateral subluxation or lateral instability, slight) code based upon the mild lateral displacement. In 2009, the VA changed the coding to 5010-5260 after an examination noted the absence of knee instability but the presence of painful motion. The findings reported by the VA examiner, 5 months after the NARSUM examination during

rehabilitation, were not significantly worse than those reported by the NARSUM were; however, painful motion and lateral instability were documented. Board members agreed that both exams would warrant a 10% rating with application of VASRD §4.59 Painful motion. Board members also agreed that the VA exam alone supported a 10% rating based on the lateral instability. Neither coding scheme offers any advantage to the CI. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication for the right knee 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. As discussed above, PEB reliance on the USAPDA pain policy for rating the right knee condition was operant in this case and the condition was adjudicated independently of that policy by the Board. In the matter of the right knee 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>
Right Knee Pain Status Post (S/P) Anterior Cruciate Ligament Reconstruction	5099-5003	10%
	<b>COMBINED</b>	<b>10%</b>

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120627, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans’ Affairs Treatment Record

XXXXXXXXXXXXXXXXXXXX, DAF  
 Acting 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, AR20130003066 (PD201201103)

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)