

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXX
CASE NUMBER: PD1201141
BOARD DATE: 20130215

BRANCH OF SERVICE: NAVY
SEPARATION DATE: 20030915

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty MA1/E-6 (9750/Functional Support and Administration), medically separated for status post (s/p) anterior cruciate ligament (ACL) reconstruction, left knee and degenerative joint, left knee/right ankle. The CI had a history of recurring right ankle and left knee pain dating back to 1995 and 1999. The left knee and right ankle conditions could not be adequately rehabilitated for the CI to meet the physical requirements of his Rating or satisfy physical fitness standards. He was placed on limited duty (LIMDU) and referred for a Medical Evaluation Board (MEB). The MEB forwarded no other conditions for Informal Physical Evaluation Board (IPEB) adjudication. The IPEB adjudicated the s/p ACL reconstruction, left knee and degenerative joint, left knee/right ankle conditions as unfitting, rated 10% and 10%, with application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 20% disability rating.

CI CONTENTION: "I received two ACL reconstruction (sic) to my left knee and at this time the VA Hospital has recommended knee replacement. My right ankle has damage and continues to deteriorate."

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 s/p ACL reconstruction, left knee and degenerative joint, left knee/right ankle conditions as requested for consideration meet the criteria prescribed in DoDI 6040.44 for Board purview; and, are 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 Board for Correction of Naval Records.

RATING COMPARISON:

Service IPEB – (3 mons pre-sep) Dated 20030602			VA (1 Mo. Pre Separation) – All Effective Date 20030916			
Condition	Code	Rating	Condition	Code	Rating	Exam
S/P ACL Reconstruction, Left Knee	5299-5003	10%	S/P left Knee ACL Reconstruction	5299-5259	10%	20030804
Degenerative Joint, Left Knee/Right Ankle	5299-5003	10%	Arthritis, Right Ankle	5010-5271	10%	20030804
↓No Additional MEB/PEB Entries↓			Right Shoulder Impingement/Tendinitis	5024	10%	20030804
			0% X 2 / Not Service-Connected x 4			20030804
Combined: 20%			Combined: 30%			

ANALYSIS SUMMARY: The Board acknowledges the CI's contention regarding the significant impairment with which his service-connected condition continues to burden him; but, must emphasize that the Disability Evaluation System has neither the role nor the authority to compensate members for anticipated future severity or potential complications of conditions resulting in medical separation. That role and authority is granted by Congress to the Department of Veterans Affairs, operating under a different set of laws.

Status Post ACL Reconstruction, Left Knee and Degenerative Joint, Left Knee Condition. The CI had a long history of multiple sports related injuries to his left knee. His initial injury occurred in 1994 and magnetic resonance imaging (MRI) results revealed tears to the left ACL as well as the medial and lateral menisci. The CI underwent an ACL reconstruction in March 1995 and recovered well until a re-injury in 1997. An MRI revealed a tear in the ACL graft. A surgical revision of the ACL was performed in Jan 1999. Other significant surgical history included a left knee arthroscopic chondroplasty with debridement of meniscal tear in May 2002. At the MEB examination, (performed 5 months prior to separation) the CI reported exacerbating pain with prolonged standing, running, marching, and jumping activities. The MEB physical exam noted painful range-of-motion (ROM) of 0-145 degrees (normal 0-140 degrees), joint line tenderness and "evidence of mild effusion and a positive Lachman's" (noted by ortho note as 1+ with strong endpoint). The examiner stated "There is no ligament laxity to valgus or varus stress. There is no distinct laxity noted on anterior and posterior drawer tests despite positive Lachman's." Radiographs demonstrated joint space narrowing and osteophyte formation consistent with degenerative changes. The DD Form 2808, Report of Medical Exam, dated a week prior to the NARSUM indicated left knee crepitation with decreased flexion to 70 degrees (normal 140 degrees).

At the VA Compensation and Pension (C&P) examination, (performed a month prior to separation) the CI reported constant pain on ambulation, ascending/descending stairs, squatting, kneeling, and standing/sitting for long periods of time. Radiographs demonstrated degenerative arthritic changes. Exam demonstrated tenderness; pain limited ROM of 0-95 degrees (including DeLuca) and no evidence of laxity.

The Board directs its attention to its rating recommendations based on the evidence just described. Both Service and VA exams documented either painful motion IAW §4.59 or swelling or disability IAW §4.45 (the joints) to warrant a minimum 10% rating. The MEB examiner reported a positive Lachman's (instability test), but stated "no distinct laxity noted...despite the positive test." The CI had no incapacitating episodes proximal to his DOS. The Board deliberated if the record supported a higher rating code 5257 (knee, other impairment) for the presence of instability rated 20% (moderate), or dual coding for both painful motion (due to degeneration) and for instability. Additionally, the Board considered code 5262 (tibia and fibula, impairment) rated 20% (moderate) or 10% (slight) knee disability, but evidence did not support a 20% evaluation, or dual rating. The Board determined that the degenerative arthritis code as utilized by the Service was appropriate in this case. The Board discussed the IPEB's condition description of separately listing left knee ACL reconstruction from left knee degenerative joint and considered combining both descriptions as a single listing of "status post left knee ACL reconstruction with degenerative joint disease." However, this description change would not provide any benefit to the CI in reference to a rating versus the present IPEB analogous code for arthritis, and all knee disability was considered in the Board's rating. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt) and §4.59 (painful motion), the Board concluded that there was insufficient cause to recommend a change in the IPEB adjudication for the ACL Reconstruction, Left Knee Condition.

Degenerative Joint, Right Ankle Condition. There were three goniometric ROM evaluations in evidence, with documentation of additional ratable criteria, which the Board weighed in

arriving at its rating recommendation in regards to the right ankle condition as summarized in the chart below.

Right Ankle ROM (Degrees)	LIMDU Bd. ~ 19 Mos. Pre-Sep	MEB ~5 Mos. Pre-Sep	VA C&P ~1 Mo. Pre-Sep
Dorsiflexion (0-20)	0	10	15
Plantar Flexion (0-45)	60	50	45
Comment	Soft tissue swelling; in/eversion = 5	painful ROM; in/eversion = 5	+ Deluca
§4.71a Rating	10%	10%	10%

The CI had multiple sports related injuries to his right ankle beginning in 1992. He had a well documented history of degenerative joint disease to the right ankle. At the MEB examination the CI reported exacerbating pain with prolonged standing, running, marching, and jumping activities. The MEB physical exam noted ROM from 0-50 degrees (normal 0-45 degrees) plantar flexion and 0-10 degrees (normal 0-20 degrees) dorsiflexion. There was also limited inversion and eversion. MRI of the right ankle revealed significant findings consistent with chronic injuries as well as “mild to moderate degenerative thinning” around the ankle joint. There were partial chronic tears of two ankle ligaments. There was no evidence suggesting ankle instability, or presence of abnormal movement, weakness, redness, heat, deformity, malalignment, and subluxation or guarding of movement. Radiographs demonstrated degenerative arthritic changes. At the prior to separation C&P examination, the CI reported discomfort with weight bearing, ambulation, and instability ambulating on uneven surfaces which occur intermittently as often as twice per week and lasting up to 12 hours. The CI reported no incapacitating episodes. The C&P examination revealed painful ROM with crepitus, but not limited by fatigue, weakness, or lack of endurance. The right ankle ROM exam is summarized above.

The Board directs attention to its rating recommendation based on the above evidence. The Service and VA each rated the right ankle at 10% under different analogous codes of 5299-5003 and 5010-5271 respectively. The Board determined that the CI’s disability picture did not support a higher rating under 5271 (ankle, limited motion) at 20% (marked) nor under code 5262 (tibia and fibula, impairment) at 20% (moderate) ankle disability. The Board determined that under either of the above codes, the CI’s condition was consistent with a maximum rating of 10%. Having well documented degenerative arthritic changes in the right ankle, the IPEB coding of 5099-5003 is appropriate. Ideal coding would change the description to include only the ankle condition with the knee considered in the rating above, but this change would offer no rating benefit to the CI. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt) and §4.59 (painful motion), the Board concluded that there was insufficient cause to recommend a change in the IPEB adjudication for the right ankle 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. In the matter of ACL reconstruction left knee condition; and the degenerative joint, left knee/right ankle conditions the Board unanimously recommends no change in the IPEB adjudications. 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:

UNFITTING CONDITION	VASRD CODE	RATING
s/p ACL Reconstruction, Left Knee	5299-5003	10%
Degenerative Joint, Left Knee/Right Ankle	5299-5003	10%
	COMBINED	20%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120623, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

XXX
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 8 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 USMC
- former USN
- former USMC
- former USMC
- former USN
- former USMC

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Assistant General Counsel
(Manpower & Reserve Affairs)