

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXXXXX
CASE NUMBER: PD1201227
BOARD DATE: 20130215

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20020628

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (91J/Medical supply specialist), medically separated for decreased range-of-motion (ROM), and pain, of the left ankle, w/pes planus. While TDY for air assault training in December 2000, the CI was hit by a car in a crosswalk. The CI was seen at the military clinic; however, he was unable to complete training and returned to his home unit. He sought medical attention in February 2001 and imaging revealed inflammation in both ankles, but no broken bones. Bone scan was positive for inflammation bilaterally but not specific for this injury. Initially he was diagnosed with left subtalar arthrosis, but after orthopedic and podiatric treatment (to include injections) and clarification of no arthritis, the diagnosis was changed to chronic left ankle and mid foot pain and instability due to trauma. The CI could not be adequately rehabilitated to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was issued a permanent L4 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 left ankle as unfitting, rated 10%, with application of the Veteran’s Affairs Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated and released from active duty due to medical disability.

CI CONTENTION: “Left ankle problem which would not allow soldier to perform his physical duties, Post Traumatic Stress Disorder”

SCOPE OF REVIEW: The Board’s scope of review is defined in DoDI 6040.44, Enclosure 3, paragraph 5.e.(2). It is limited to those conditions determined by the PEB to be unfitting for continued military service and those conditions identified but not determined to be unfitting by the PEB when specifically requested by the CI. The ratings for unfitting conditions will be reviewed in all cases. The unfitting left ankle condition 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 posttraumatic stress disorder (PTSD), remain eligible for future consideration by the respective Service Board for the Correction of Military Records.

RATING COMPARISON:

Service IPEB – Dated 20020315			VA (2 Mos. Pre-Separation) – All Effective Date 20020629			
Condition	Code	Rating	Condition	Code	Rating	Exam
Left ankle, decreased ROM, and pain, ...	5271	10%	Left ankle, residuals of injury ...	5271	0%**	20020430
↓No Additional MEB/PEB Entries↓			Left index finger, residuals ...	5299-5225	0%	20020430
			Hypertension	7101	0%	20020430
			0% X 3 above / Not Service-Connected x 1			20020430

Combined: 10%	Combined: 0%*
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*Derived from VA Rating Decision (VARD) dated 20020629 (most proximate to date of separation (DOS))

** Rating increased to 10% based on VARD dated 20110928 effective 20101209

ANALYSIS SUMMARY:

Left Ankle Condition. The narrative summary (NARSUM) noted failure of non-surgical treatment to the left foot and ankle injury, with no surgery recommended. The CI had constant baseline pain with walking causing an almost immediate increase in pain. The goniometric range-of-motion (ROM) evaluations in evidence for the left ankle which the Board weighed in arriving at its rating recommendation, with documentation of additional ratable criteria, are summarized in the chart below. The right ankle is included for comparison purposes only.

Ankle ROM (Measured in Degrees)	PT ~6 Mo. Pre-Sep		MEB ~4 Mo. Pre-Sep		VA C&P ~2 Mo. Pre-Sep	
	Left	Right	Left	Right	Left	Right
Dorsiflexion (0-20)	-10*	2	10	12	0-20	NE
Plantar Flexion (0-45)	25	35	25	35	0-45	
Comment	**"Lacks 10° to 0/Neutral DF"		L ankle w/ mild generalized tenderness; Drawer sign (-); mild valgus-varus laxity; strength 3-4/5; Neurovascular intact; 1+ foot & ankle edema; TTP		Normal gait; no painful motion, edema, instability or weakness; no flat feet; no limited function of standing or walking; has left foot insert	
\$4.71a Rating	20%	NA	10%	NA	0%	NA

The MEB physical exam noted mild generalized tenderness, greatest about the lateral joint line with 1+ ankle and foot edema. There was mild valgus-varus laxity and decreased ankle strength. Specialty exam of December 2001, 5 months prior to separation (and a month after the charted PT exam above), was referenced and indicated ankle tenderness with the "ankle joint noted to dorsiflex approximately 5° past 90 with the knee flexed." The ankle/foot exams are summarized above. The MEB examiner noted dorsiflexion of the left ankle is less than 10 degrees and contributes to the pain when he tries to walk. Improvement is highly unlikely. (The CI) cannot walk or stand without significant pain. He is unable to walk, much less run without significant pain." Diagnosis was "chronic left ankle pain, instability, and decreased range of motion following injury." Bilateral X-rays and bilateral magnetic resonance imaging (MRI) exams performed in January 2002 were unremarkable (there was no evidence of arthritis at the ankle). Weight bearing X-rays on 7 September 2001 noted mild bilateral pes planus deformity, greater on the right than the left, otherwise unremarkable. At the VA Compensation and Pension (C&P) exam, 2 months prior to separation, the CI reported constant left ankle and foot pain exacerbated by prolonged walking, prolonged standing, shifting weight, and heavy lifting that is alleviated by rest. He also reported episodes of intense left ankle pain that took several days to decrease to a manageable level. Physical exam showed full ROM without pain. There was no weakness, lack of endurance, or incoordination impacting left ankle function. X-rays showed no abnormalities.

The examiner indicated there were no signs of abnormal weight bearing on examination of the feet. The (CI) had a shoe insert in his left shoe and did not have flatfeet. There was no evidence of tenderness, edema, painful motion, edema, instability, or weakness bilaterally. Posture and gait were normal. There was no limited function of standing or walking. ROM was not affected by pain, weakness, lack of endurance or incoordination. Left foot and ankle X-rays were read as normal. Diagnosis was "left ankle and foot condition, no abnormal findings on today's exam." The VA rated this exam at 0% as "The review failed to establish any significant occupational impairment from the claimant's service-connected disabilities."

The Board directs attention to its rating recommendation based on the above evidence. The PEB and VA both coded the condition under code 5271 (Ankle, limited motion), based on significantly different exams. It is obvious that there is a clear disparity between these examinations, with very significant implications regarding the Board's rating recommendation. The Board discussed the interpretation of the PT exam being either complete ROM of plantar flexion 10-25 degrees as indicated above, or dorsiflexion 10 degrees of 20 degrees normal and plantar flexion of 0-25 degrees. Since the exam was most distant from separation and there was a clear trend of improvement in the ankle exams summarized above the PT exam had little probative value for rating at the time of separation. The Board thus deliberated the probative value assignment of the MEB versus the VA conflicting evaluations, but neither exam would support a rating higher than 10% (Moderate limitation) under code 5272 or any alternative coding. The record indicated some dorsiflexion was maintained and supported the disability picture as best represented by the MEB exam. Additionally, although the VA exam demonstrated likely improvement, the Board cannot lower the combined PEB 10% disability determination. 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 left 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. 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 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:

UNFITTING CONDITION	VASRD CODE	RATING
Decreased range of motion, and pain, of the left ankle	5271	10%
	COMBINED	10%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120717, 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 / XXXXXXXXX), 2900 Crystal Drive, Suite 300, Arlington, VA 22202-3557

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation
for XXXXXXXXXXXXXXXXXXXX, AR20130003818 (PD201201227)

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

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Deputy Assistant Secretary
(Army Review Boards)