

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: X
CASE NUMBER: PD1201566
BOARD DATE: 20130305

BRANCH OF SERVICE: MARINE CORPS
SEPARATION DATE: 20030615

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty LCPL/E-3 (0341/Mortar Man), medically separated for right ankle osteochondritis dissecans (OCD) status post (s/p) scope and debridement right ankle. His ankle pain began in October 2001 during a march, but he did not report the injury until March 2002 when he was diagnosed with medial talar dome OCD of the right ankle. An arthroscopy was performed in April 2002 and he was moved to a more sedentary Military Occupational Specialty (MOS). He then deployed to Okinawa and resumed infantry status which led to a recurrence of severe right ankle pain. Despite anti-inflammatories and arthroscopy with debridement 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 placed on light duty 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 ankle condition 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 with a 10% disability rating.

CI CONTENTION: "My R ankle hurts more than before."

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 20030319			VA (2 Mos. Pre -Separation) – All Effective Date 20030616			
Condition	Code	Rating	Condition	Code	Rating	Exam
Rt Ankle Osteochondritis Dissecans S/P Scope & Debridement Rt Ankle	5299-5003	10%	Residuals, Post Op Rt Ankle	5299-5271	10%	20030422
↓ No Additional MEB/PEB Entries ↓			Tinnitus	6260	10%	20030428
			0% X 2 / Not Service-Connected x 1			
Combined: 10%			Combined: 20%			

ANALYSIS SUMMARY: The Disability Evaluation System (DES) is responsible for maintaining a fit and vital fighting force. While the DES considers all of the member's medical conditions, compensation can only be offered for those medical conditions that cut short a member's career, and then only to the degree of severity present at the time of final disposition. The DES has neither the role nor the authority to compensate members for anticipated future severity

or potential complications of conditions resulting in medical separation nor for conditions determined to be service-connected by the Department of Veterans Affairs (DVA) but not determined to be unfitting by the PEB. The Board's role is confined to the review of medical records and all evidence at hand to assess the fairness of PEB rating determinations, compared to VASRD standards, based on severity at the time of separation.

Right Ankle Condition. The medical records indicate a history of chronic right ankle pain, treated conservatively as a sprain. The CI had X-rays that was consistent with a diagnosis of OCD of the right medial talar dome, without subluxation, recent fracture or sign of ankle instability. Magnetic resonance imaging (MRI) of the right ankle in January 2002, confirmed the diagnosis, found no evidence of loose body and all tendons, lateral ligamentous structures were normal. A diagnostic arthroscopic surgery performed April 2002 revealed no evidence of cartilage disruption, but found fluid between ankle joint space and areas of chondromalacia of the talotibial joints which were debrided. These areas were debrided along with the area of OCD. Four months after surgery, the CI presented to the PCC to reported continued pain, especially when running and with dorsiflexion. He denied re-injury. He denied numbness, tingling and radiation of pain and on examination, pain was elicited with eversion, milder on dorsiflexion, but he was able to bear weight and had full range-of-motion (ROM). At the MEB/narrative summary (NARSUM) examination, 21 January 2003, approximately 5 months prior to separation, the CI reported he was deployed to Okinawa where he resumed his infantry status requiring multiple and frequent humps of long duration. He experienced a recurrence in severity and in appearance of the severe ankle pain with each humping exercise. On physical examination, there was tenderness to palpation; dorsiflexion was 10 degrees, plantar flexion to 40; notably there was no increased tenderness to palpation with forced eversion and dorsiflexion or dorsiflexion alone. The MEB physician noted a second surgery would not serve any benefit. At the Compensation and Pension (C&P) evaluation, 22 April 2003, approximately 2 months prior to separation, the CI reported pain on climbing and descending stairs and when marching. VA examiner reported normal gait; and noted because of pain the CI was not able to walk on the right heel or hop on the right foot. He was able to perform repetitive squatting without difficulty. Neurological examination was normal. Examination of the right ankle demonstrated a definite popping during rotation of the ankle, and greater flexibility than on the left. Dorsiflexion was 5 degrees compared to 20m on the left. Plantar flexion was 35. The examiner noted "ROM of the right knee was also limited by pain and instability, but not by fatigue, weakness, lack of endurance or incoordination."

The Board directs attention to its rating recommendation based on the above evidence. The PEB and VA chose different coding options for the condition. The PEB rated the condition under the analogous 5299- 5003 code (degenerative arthritis) and assigned a 10% rating for painful motion. The VA coding choice of 5299-5271 (ankle, limited motion) assigned a 10% rating. A higher rating under the 5271 code requires evidence of marked limitation of motion or the use of another code. The Board next considered the 5270 and 5272; however, there was no objective evidence of ankylosis of the ankle and no evidence of poor weight bearing on the ankle. The Board agreed that, at the time of separation, the CI had some limitation in portions of the ROM of his ankle, but that pain on use of the ankle was the predominant source of his disability. 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.

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:

UNFITTING CONDITION	VASRD CODE	RATING
Rt Ankle Osteochondritis Dissecans	5299-5003	10%
	COMBINED	10%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120831, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

x
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 04 Apr 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:

- xformer USMC
- xformer USN
- xformer USMC
- xformer USMC
- xformer USN
- xformer USMC
- xformer USMC
- xformer USN
- xformer USMC
- xformer USN
- xformer USMC

x
Assistant General Counsel
(Manpower & Reserve Affairs)