

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX  
BRANCH OF SERVICE: MARINE CORPS

CASE: PD-2021-00092  
SEPARATION DATE: 20060430

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**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E5, Rifleman, medically separated for “right anterior cruciate ligament (ACL) tear” with a disability rating of 10%.

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**CI CONTENTION:** The knee condition has worsened, and he is seeking retirement pay. The complete submission is at Exhibit A.

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**SCOPE OF REVIEW:** The panel’s scope of review is defined in DoDI 6040.44. It is limited to review of disability ratings assigned to those conditions determined by the Physical Evaluation Board (PEB) to be unfitting for continued military service, and when specifically requested by the CI, those conditions identified by the Medical Evaluation Board (MEB) but determined by the PEB to be not unfitting or non-compensable. Any conditions outside the panel’s defined scope of review, and any contention not requested in this application, may remain eligible for future consideration by the Board for Correction of Military/Naval Records. The panel’s authority is limited to assessing the fairness and accuracy of PEB rating determinations and recommending corrections when appropriate. The panel gives consideration to VA evidence, particularly within 12 months of separation, but only to the extent that it reasonably reflects the severity of disability at the time of separation.

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**RATING COMPARISON:**

SERVICE PEB - 20060217			VARD - NA			
Condition	Code	Rating	Condition	Code	Rating	Exam
Right (ACL) Tear	5299-5003	10%	No VA Examination Proximate to Separation in Evidence			
Right Knee Grade III Chondromalacia of the Trochlea and Medial Femoral Condyle	Cat II					
Status Post (S/P) Right ACL Reconstruction						
Right Knee Degenerative Joint Disease						
<b>COMBINED RATING: 10%</b>			<b>COMBINED RATING OF ALL VA CONDITIONS: NA</b>			

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**ANALYSIS SUMMARY:**

**Right ACL Tear.** According to service treatment records (STR) and MEB narrative summary (NARSUM), the CI sustained a right knee injury in 2003 after stepping in a hole. He underwent right knee ACL reconstruction in October 2004 and radiographic evidence at the time showed the ACL tunnels in an acceptable position.

At a physical therapy visit on 1 July 2005, the CI reported no pain with normal activity. However, after running the pain could increase to 7/10 in intensity with some swelling. He also complained of limited range of motion (ROM), pain when going up-and-down stairs, and occasional soreness

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in the morning. Physical examination showed “90-100 degrees” of flexion (normal 140), minimal patellofemoral signs, and no instability or meniscal tear signs.

During the 13 September 2005 MEB NARSUM examination, 8 months prior to separation, the CI complained of continued right knee pain and swelling after running, which caused weakness, but no episodes of instability or giving way. Physical examination showed ROM from 0-125 degrees, a small effusion, crepitus, and a 3-cm quadriceps difference compared to the left leg. Lachman and anterior/posterior drawer testing showed a stable right knee, and the ACL graft was intact. There was no VA examination proximate to separation in evidence.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the right knee condition 10%, analogously coded 5299-5003 (arthritis, degenerative). While there was no compensable limitation of flexion or extension to support a rating under codes 5260 or 5261, there was evidence of painful motion with functional loss to warrant a 10% rating (based on §4.59, §4.40 and §4.45). The panel considered other VASRD knee and analogous codes, but all were less applicable and not advantageous for rating. There was therefore no higher rating than the 10% adjudicated by the PEB. Panel members also agreed that the Category II conditions (contributed to the primary unfitting condition but not separately ratable) were intertwined, and that the overall knee impairment from these diagnoses was subsumed under the ratings for the knee by the PEB. More than one rating based on the same impairment is prohibited, IAW §4.14 (avoidance of pyramiding). After due deliberation, considering all the evidence and mindful of VASRD §4.3 (reasonable doubt), the panel concluded there was insufficient cause to recommend a change in the PEB adjudication for the right knee condition.

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**BOARD FINDINGS:** In the matter of the right knee condition and IAW VASRD §4.71a, the panel recommends no change in the PEB adjudication. There are no other conditions within the panel’s scope of review for consideration. Therefore, the panel recommends no modification or re-characterization of the CI’s disability and separation determination.

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The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20210725, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

2/8/2023



**DEPARTMENT OF THE NAVY**  
SECRETARY OF THE NAVY COUNCIL OF REVIEW BOARDS  
720 KENNON STREET SE STE 309  
WASHINGTON NAVY YARD, DC 20374-5023

IN REPLY REFER TO  
6040  
CORB: 003  
27 Jun 23

From: Director, Secretary of the Navy Council of Review Boards

Subj: Physical Disability Board of Review Determination

Ref: (a) 6040.44(Series)

1. The Physical Disability Board of Review (PBDR) reviewed your case in accordance with reference (a) and forwarded their recommendation for action.
2. On 27 June 2023, the Assistant Secretary of the Navy (Manpower and Reserve Affairs) accepted the PBDR's recommendation of no change to your characterization of separation or disability rating assigned.
3. The PBDR determination is final and not subject to appeal or review.