

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX  
BRANCH OF SERVICE: ARMY

CASE: PD-2022-00049  
SEPARATION DATE: 20091201

**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E4, Nodal Network Systems Operator and Maintainer, medically separated for “moderate right foot injury,” with a disability rating of 10%.

**CI CONTENTION:** “I believe all the issues and secondary issues involved with my Med board for knee and ankle injuries were not fully evaluated based on my medical records and physical. I request the PDBR review all conditions.” The complete submission is at Exhibit A.

**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 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.

**RATING COMPARISON:**

SERVICE PEB - 20091029			VARD - 20100405			
Condition	Code	Rating	Condition	Code	Rating	Exam
Moderate Right Foot Injury	5284	10%	Status Post-Surgical Repair of the Right Ankle	5299-5271	10%	20091201
<b>COMBINED RATING: 10%</b>			<b>COMBINED RATING OF ALL VA CONDITIONS: 50%</b>			

**ANALYSIS SUMMARY:**

**Right Foot Injury.** According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI suffered an inversion injury and complete talonavicular dislocation in February 2008 while playing basketball. Despite a full course of rehabilitative treatment, he continued to experience pain and stiffness and subsequently underwent debridement of the right posterior tibial tendon and the medial aspect of the right subtalar joint on 13 May 2009. Extensive subtalar joint cartilage loss and arthritic changes were noted during surgery, and the CI continued to have pain, swelling and stiffness that negatively impacted his ability to perform his military duties.

The 6 August 2009 MEB podiatry addendum, 3 months prior to separation, noted CI reports of pain and stiffness below the right ankle, made worse by any weight bearing activity. He also had right foot pain and balance problems. He managed symptoms by avoiding aggravating activity, and was not taking any medication or wearing orthotics. Physical examination

revealed diffuse swelling and tenderness along the course of the right tibial tendon and talus on the medial side of the right ankle. The examiner noted decreased right subtalar joint range of motion (ROM) when compared to the unaffected left ankle, and painful ankle ROM in all aspects, without crepitus. The diagnosis was "right hind foot pain, status post right subtalar joint dislocation and reduction with subsequent exploration of the joint."

During the 1 September 2009 MEB examination (recorded on DD Forms 2807-1 and 2808), 3 months before separation, physical findings showed the right ankle was warm, swollen and tender medially. Plantar flexion (PF) and dorsiflexion (DF) were reduced and there was pain with ROM testing. Toe walk and tandem walk were normal, but heel walk was difficult due to pain. The CI had a minimal to mild limp favoring the right ankle. On 9 September 2009, an MRI showed bone marrow edema of the medial talus, chronic sprain of the anterior talofibular ligament, chronic tear of the calcaneofibular ligament, and Achilles tendinosis.

At the 22 September 2009 MEB physical therapy (PT) examination, 2 months prior to separation, the CI complained of right ankle pain aggravated by activity. He described ongoing stiffness in the morning that gradually improved throughout the day, and numbness in the right lateral foot and toes. He reported no difficulty with balance, and the therapist documented a normal gait, with no deviations or pain, and a normal double leg squat. Right ankle ROM tests revealed DF to 0 degrees (normal 20) and PF to 51 degrees (normal 45), after three repetitions. On the same day, the MEB NARSUM examination noted complaints of right ankle pain and reduced ROM. The CI rated the pain 4-8/10 while at rest, and 7-8/10 with prolonged walking, standing, impact activities, and attempts at running. The examiner cited the MEB physical examination and PT ROM findings and additionally recorded normal lower extremity strength, sensation, and reflexes. The examiner deemed the condition stable with a prognosis of continued ankle pain, swelling and instability.

On 6 October 2009, the CI was fitted with an ankle support, but at a primary care visit on 20 October 2009, he reported increased ankle pain and swelling due to prolonged walking and standing. Physical examination showed a mild effusion with generalized tenderness, and the provider prescribed anti-inflammatory medications, as well as an elastic wrap and elevation.

At the 1 December 2009 VA Compensation and Pension (C&P) examination, performed on his separation day, the CI reported pain and stiffness with swelling and weakness due to prolonged standing or walking; he could not run. He experienced flare-ups multiple times a day with weakness, instability and cramping, and was not receiving any treatment for the condition. Physical findings showed a normal gait and heel-to-toe walking with no need for an assistive device. There was abnormal ankle movement and guarding, but the right tibia and fibula were normal with no evidence of swelling, instability, weakness, tenderness, deformity, malalignment or ankylosis. Right ankle DF was to 15 degrees and plantar flexion to 35 degrees, with painful motion. After repetition, the ankle joint function was additionally limited by pain, fatigue, and lack of endurance, with major functional impact from pain, but no additional limitation of motion. The examiner noted that the condition had not caused any incapacitation in the past 12 months.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the right foot condition 10%, coded 5284 (foot injuries, other), citing moderate right foot injury considering "functional loss due to factors such as pain, including on repeated use and painful motion, fatigability, incoordination, weakness with repetitive use and flareups." The VA also rated the foot condition 10%, but analogously coded 5299-5271 (limitation of ankle motion), based on the C&P examination, citing moderate limitation of motion. Panel members considered the rating criteria for code 5271 to determine whether the ankle limitation of motion was "moderate" or "marked," and agreed that the VA examination ROM measurements were consistent with a "moderate" limitation of motion and warranted a 10% rating. The panel

next considered whether code 5284 (other foot injuries) provided for a higher rating (§4.7). Ankle imaging 3 months before separation provided objective evidence of significant chronic ankle and subtalar joint damage, and the MEB NARSUM examiner's prognosis noted continued pain, swelling, and instability. Additionally, STR notes in October 2009 provided objective documentation of pain and swelling exacerbated by routine activities. Based on all the evidence and considering functional loss (§4.59, §4.40 and §4.45) due to exacerbations, the panel majority agreed that a 20% rating for a "moderately severe" injury under code 5284 was supported for the ankle disability. However, the presence of a normal gait at the NARSUM and VA examinations did not support characterizing the disability as "severe" for a higher 30% rating. The minority voter determined that a 10% rating more nearly approximated the CI's disability foot disability based on the VA examination findings which showed a normal gait, no current treatment, and no incapacitation in the past 12 months. Panel members considered alternative VASRD ankle and foot codes, but all were less applicable and/or not advantageous to rating. Therefore, there was no rating higher than a 20% rating supported for the right foot condition. After due deliberation, considering all the evidence and mindful of VASRD §4.3 (reasonable doubt), the panel majority recommends a disability rating of 20% for the right foot condition, coded 5284.

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**BOARD FINDINGS:** In the matter of the right foot condition, the panel majority recommends a disability rating of 20%, coded 5284 IAW VASRD §4.71a. The single voter for dissent recommends no change and did not elect to submit a minority opinion. There are no other conditions within the panel's scope of review for consideration.

The panel recommends the CI's prior determination be modified as follows, effective the date of medical separation:

<b>CONDITION</b>	<b>VASRD CODE</b>	<b>PERMANENT RATING</b>
Moderate Right Foot Injury	5284	20%

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The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20220511, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

AR20230009466, XXXXXXXXXXX

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Dear XXXXXXXXXXX:

The Department of Defense Physical Disability Board of Review (DoD PDDBR) reviewed your application and found that your disability rating should be modified but not to the degree that would justify changing your separation for disability with severance pay to a permanent retirement with disability. I have reviewed the Board's recommendation and record of proceedings (copy enclosed) and I accept its recommendation. This will not result in any change to your separation document or the amount of severance pay. A copy of this decision will be filed with your Physical Evaluation Board records. I regret that the facts of the case did not provide you with the outcome you may have desired.

This decision is final. Recourse within the Department of Defense or the Department of the Army is exhausted; however, you have the option to seek relief by filing suit in a court of appropriate jurisdiction.

A copy of this decision has also been provided to the Department of Veterans Affairs.