

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2022-00056
SEPARATION DATE: 20040916

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E4, Carpentry and Masonry Specialist, medically separated for "low back pain" and "right knee pain," rated 10% and 0%, respectively, with a combined disability rating of 10%.

CI CONTENTION: "At the time I was rated, I do not believe that I was accurately rated. I would like the review board to review. I also do not think/ (remember if) some of my other conditions were addressed." 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 - 20040723			VARD - NA			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Low Back Pain with Bulging Discs at L4, L5, L5-S1	5299-5237	10%	No VA Examination Proximate to Separation in Evidence			
Right Knee Pain	5099-5003	0%				
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: 70%			

ANALYSIS SUMMARY:

Low Back Pain (LBP). According to the service treatment record and MEB narrative summary (NARSUM), the CI's chronic LBP began in July 2003 after jumping in and out of a 5-ton tactical truck while wearing load bearing equipment (LBE), followed by a ruck march. Thoracic spine X-rays in November 2003 were normal but a lumbar spine CT scan in December 2003 showed an L4-5 broad based bulge contacting the left root nerve with mild foraminal narrowing. Disc height reduction at L5-S1 and facet and sacroiliac (SI) joint arthritis was also recorded.

During the 10 March 2004 MEB examination (recorded on DD Forms 2807-1 and 2808), 6 months before separation, the CI reported LBP and the examiner noted a permanent profile was being issued for the back condition. An MRI on 30 March 2004 showed a disc protrusion at L5-S1 contacting the left L5 nerve root.

The 16 April 2004 MEB NARSUM examination, 5 months prior to separation, noted complaints of persistent LBP, radiating to the right buttock, posterior calf and bottom of the right foot, with paresthesias. The CI reported that her symptoms had been ongoing since August 2003 and continued to be exacerbated by wearing her Kevlar helmet, LBE, and rucksack. The symptoms were partially relieved by medications (Roxicet and Elavil), and she had undergone one SI injection with little relief. Physical examination showed normal gait, muscle strength and reflexes, and negative bilateral straight leg raise tests to elicit radicular symptoms. Thoracolumbar range of motion (ROM) tests showed forward flexion to 70 degrees (normal 90), extension to 10 degrees (normal 30), right/left lateral flexion to 30 degrees (normal) and right/left rotation to 30 degrees (normal), with a combined ROM of 200 degrees. On 30 April 2004, the CI underwent electrodiagnostic studies (EDX), which showed no evidence of a right L4-S1 radiculopathy. The examiner recommended a follow-up EDX in 4-6 months if symptoms persisted or worsened. 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 back condition 10%, coded analogously as 5299-5237 (lumbar spine strain), citing 70 degrees forward flexion (greater than 60 degrees but not greater than 85 degrees) with painful motion. Panel members agreed that a 10% rating, but no higher, was justified for limitation of flexion and combined ROM, as reported on the MEB NARSUM examination. There was no muscle spasm or guarding severe enough to result in an abnormal gait or spinal contour, thus the next higher 20% rating was not justified on this basis. After due deliberation, considering all the evidence and mindful of VASRD §4.3 (reasonable doubt), the panel concluded that there was insufficient cause to recommend a change in the PEB adjudication for the low back condition.

Right Knee Pain. According to the STR and MEB NARSUM, the CI reported her right knee pain began during basic training in 1998. A physical therapy consult on 28 May 2002 noted that she was a recently activated Reservist and felt her knee pain had been brought on by increased running and physical training since activation. The right knee pain worsened in July 2003 after jumping out of a vehicle followed by the ruck march, as mentioned above, and X-rays on 4 August 2003 showed joint space narrowing and small patellar osteophytes. A right knee MRI on 20 August 2003 revealed a mild medial collateral ligament (MCL) injury with associated bone contusion in the medial patella and MCL thickening with edema; no joint effusion was noted. A bone scan on 21 November 2003 showed mildly increased uptake in the right knee, most likely due to a stress reactive change; surgery was not indicated.

At the MEB NARSUM examination, the CI reported a chronic history of right knee pain that had stabilized but remained constant. The examiner noted no acute distress and a normal gait. Lower extremity strength was normal throughout and during bilateral knee extension and flexion, and patellar tendon reflexes were intact. Right knee flexion was to 90 degrees (normal 140) with full extension. The examiner noted bilateral knee ROM "without pain or discomfort, ecchymosis, erythema or effusions." Further testing demonstrated no knee instability. 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 0%, coded analogously 5099-5003 (degenerative arthritis), citing "bone scan evidence of retropatellar contusion," and "pain prevents full participation" in military duties. Based on the MEB NARSUM examination, panel members agreed there was no compensable limitation of flexion or extension for a higher rating under codes 5260 or 5261. Additionally, there was no evidence of actual painful motion with functional loss supporting 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. Therefore, there was no higher rating than the 0% adjudicated by the PEB. After due deliberation, considering

all the evidence and mindful of VASRD §4.3 (reasonable doubt), the panel concluded that there was insufficient cause to recommend a change in the PEB adjudication for the right knee condition.

BOARD FINDINGS: In the matter of the low back pain and IAW VASRD §4.71a, the panel recommends no change in the PEB adjudication. In the matter of the right knee pain 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.

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20220510, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

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Dear XXXXXX

The Department of Defense Physical Disability Board of Review (DoD PDBR) reviewed your application and found your separation disability rating and your separation from the Army for disability with severance pay to be accurate. I have reviewed the Board's recommendation and record of proceedings (copy enclosed), and I accept its recommendation. I regret to inform you that your application to the DoD PDBR is denied.

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.