

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXX
BRANCH OF SERVICE: MARINE CORPS

CASE: PD-2022-00088
SEPARATION DATE: 20090130

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E4, Field Radio Operator, medically separated for “left lateral-sided knee pain unresolved after a knee scope and lateral meniscal debridement,” with a disability rating of 10%.

CI CONTENTION: No specific contention was made. 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 - 20081028			VARD - 20090219			
Condition	Code	Rating	Condition	Code	Rating	Exam
Left Lateral-Sided Knee Pain	5099-5003	10%	Residuals of Left Knee Lateral Meniscectomy	5260	10%	20081217
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: 50%			

ANALYSIS SUMMARY:

Left Knee Pain. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI’s left knee pain began in July 2005 after hiking with a full load during training. An MRI in December 2006 showed a “stable, left knee lateral meniscus posterior horn horizontal tear extending into the body with associated meniscal cyst.” The CI underwent an arthroscopy on 1 February 2007, and at the post-surgical follow-up, the examiner noted mild effusion and tenderness with portals healing well. On 17 April 2008, X-rays showed a normal left knee. During an orthopedic visit the same day, the CI reported he was unable to run due to left knee pain. The provider noted significant painful subtalar crepitus elicited with compression of the patellofemoral joint.

The 24 July 2008 MEB NARSUM examination, 6 months prior to separation, noted the CI was currently on full duty status but had recently completed a 6-month limited duty period. He

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reported no improvement since surgery, even after physical and glucosamine therapy. The examiner noted no acute distress, some joint line tenderness laterally but not medially, and no effusion. The left knee was stable to varus and valgus stress at both zero and 30 degrees, and anterior/posterior drawer and Lachman's tests were negative. The orthopedic examiner determined the CI would not benefit from further surgical intervention.

At the 17 December 2008 VA Compensation and Pension (C&P) examination, one month before separation, the CI reported continued left knee pain associated with swelling, locking, giving way and lack of endurance. The pain was constant but did not radiate, and he denied any associated incapacitation. Physical findings revealed a normal gait, and no evidence of inflammation, subluxation, or ligament instability. Range of motion was from 0-130 degrees (normal 0-140) and limited by pain but not fatigue, weakness, lack of endurance or incoordination after repetitive use. The examiner noted no significant X-ray findings.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the left knee condition 10%, analogously coded 5099-5003 (degenerative arthritis). The VA also rated the left knee condition 10% but coded 5260 (limitation of leg flexion), based on the C&P examination, citing functional impairment and pain limited motion. Panel members agreed that while there was no compensable limitation of flexion or extension (5260 or 5261), there was evidence of painful motion with functional loss supporting a 10% rating (based on §4.59, §4.40 and §4.45). Although code 5259 (cartilage, semilunar, removal of, symptomatic) was applicable, the maximum 10% rating provided no benefit to the CI. 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 10% adjudicated by the PEB. 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 left knee condition.

BOARD FINDINGS: In the matter of the left 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 20220828, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans Affairs Record

4/13/2023



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
28 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.