

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2022-00094
SEPARATION DATE: 20070924

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E3, Infantryman, medically separated for “arthritic right ankle...” with a disability rating of 10%.

CI CONTENTION: The CI requested review of his post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), and seizure disorder. 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 - 20070904			VARD – 20080530			
Condition	Code	Rating	Condition	Code	Rating	Exam
Arthritic Right Ankle	5003	10%	Right Ankle Condition	5271	0%	20080427
PTSD	Not Unfitting		PTSD with mild memory and concentration difficulties (claimed as TBI with post-concussion syndrome)	9411	30%	20080110
TBI	Not Unfitting					
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: 60%			

ANALYSIS SUMMARY:

Right Ankle. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI’s right ankle condition began when he inverted and sprained it while running in August 2001. In March 2005, the CI underwent right ankle surgery, but it was not successful, and he was a poor candidate for additional surgery. Right ankle radiographs in November 2006 showed abnormal widening of the joint.

At the 7 May 2007 VA Compensation and Pension (C&P) examination, 4 months before separation, the CI reported intermittent 10/10 right ankle pain. Walking aggravated the condition, and he also complained of swelling and instability. The examination demonstrated a normal gait (without assistive device), and no gross deformity or tenderness. Right ankle range of motion (ROM) testing showed painless dorsiflexion of 10 degrees (normal 20) and painful plantar flexion of 40 degrees (normal 45). The 18 May 2007 MEB NARSUM examination, 4

months prior to separation, noted complaints of daily right ankle pain with frequent recurring sprains. Physical examination showed edema, tenderness, painful dorsiflexion, and laxity. He also had positive drawer and talar tilt signs. The physical therapy ROM study in May 2007 showed dorsiflexion of 10 degrees and plantar flexion of 45 degrees, both with pain after repetition.

The PEB rated the right ankle condition 10%, coded 5003 (degenerative arthritis), citing arthritis in one major joint with mechanical limitation of motion. The VA rated the right ankle condition 0%, coded 5271 (ankle, limited motion), based on the C&P examination, citing a non-compensable evaluation. There was no limitation of dorsiflexion or plantar flexion that supported a rating under the VASRD diagnostic code for limitation of motion (5271). However, there was evidence of painful motion causing functional loss supporting the 10% rating (based on §4.59, §4.40 and §4.45) as adjudicated by the PEB. The panel considered alternative VASRD ankle and analogous codes, but all were less applicable and/or not advantageous to rating. 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 ankle condition.

Contended PEB Conditions: TBI, Seizure Disorder, PTSD. The panel's main charge is to assess the fairness of the PEB determination that the contended conditions were not unfitting. None of the conditions were profiled or implicated in the commander's statement, and none failed retention standards. There was no performance-based evidence from the record that any of the conditions significantly interfered with satisfactory duty performance at separation. After due deliberation, the panel concluded there was insufficient cause to recommend a change in the PEB fitness determination for any of the contended conditions, so no additional disability ratings are recommended.

BOARD FINDINGS: In the matter of the right ankle condition and IAW VASRD §4.71a, the panel recommends no change in the PEB adjudication. In the matter of the contended TBI, seizure disorder, and PTSD, the panel recommends no change from the PEB determinations as not unfitting. 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 20220921, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

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Dear XXXXXXXXXXXX:

The Department of Defense Physical Disability Board of Review (DoD PDDBR) 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 PDDBR 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.