

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2023-00028
SEPARATION DATE: 20050930

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E5, Infantryman, medically separated for “chronic left ankle pain,” with a disability rating of 0%.

CI CONTENTION: He submitted an extensive request to review all conditions to include additional conditions not identified by the Medical Evaluation Board (MEB) and Physical Evaluation Board (PEB). 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 PEB to be unfitting for continued military service, and when specifically requested by the CI, those conditions identified by the 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 - 20050809			VARD - NA			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Ankle Pain (Left)	5099-5003	0%	No VA Examination in Evidence			
Chronic Bilateral Knee Pain	Not Unfitting					
Chronic Low Back Pain	Not Unfitting					
COMBINED RATING: 0%			COMBINED RATING OF ALL VA CONDITIONS: NA			

ANALYSIS SUMMARY:

Left Ankle Pain. According to the service treatment record and MEB narrative summary (NARSUM), the CI twisted his left ankle in April 2004 when stepping out of a bus onto a rock while wearing full load bearing equipment. An X-ray showed an avulsion fracture near the tip of the fibula of questionable age, and he was initially treated with a walking cast. Evaluation by orthopedics in June 2004 showed good ankle range of motion (ROM), no instability or tenderness, and good strength. The orthopedic surgeon noted that the fracture was likely from a previous injury and the current diagnosis was ankle sprain.

At a physical therapy (PT) appointment on 16 December 2004, 9 months before separation, the CI reported pain and instability when walking long periods or on uneven terrain. Left ankle dorsiflexion was to 10 degrees (normal 20) and plantar flexion “within normal limits” (normal 45). There was moderate hypermobility with inversion and mild tenderness along the anterior talofibular ligaments. The therapist assessed that the peroneal tendons had been stretched

and the CI had some difficulty controlling ankle inversion. Further PT to address proprioceptive and strength deficits was recommended. An MRI on 18 January 2005 revealed small tibiotalar and subtalar joints effusions. At a primary care visit on 7 March 2005, 6 months prior to separation, the CI reported chronic left ankle pain and the provider noted a normal left ankle examination.

During the 18 May 2005 MEB NARSUM examination, 4 months before separation, the CI reported chronic left ankle pain despite PT and casting. No ankle ROM measurements were recorded, but the examiner noted "normal" foot and ankle findings, except for mild pes planus bilaterally. A knee examination was also normal except the CI was not able to "duck walk." No new imaging studies were conducted, and 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 left ankle condition 0%, analogously coded 5099-5003 (degenerative arthritis), citing no significant loss of joint motion. Although the MEB NARSUM examination was more proximate to separation, no ankle ROM measurements were provided, and panel members agreed that the December 2004 PT ROM results were most consistent with a "moderate" limitation of motion for a 10% rating under code 5271 (ankle, limited motion of); a higher 20% rating was not indicated in the absence of "marked" ankle ROM limitation. Panel members considered other 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 recommends a disability rating of 10% for the left ankle condition, coded 5271.

Contended PEB Conditions: Bilateral Knee Pain and Low Back Pain. The panel's main charge is to assess the fairness of the PEB determination that the contended conditions were not unfitting. Neither of these conditions were profiled nor implicated in the commander's statement, and they did not fail retention standards. There was no performance-based evidence from the record that either 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 the contended conditions, so no additional disability ratings are recommended.

BOARD FINDINGS: In the matter of the left ankle condition, the panel majority recommends a disability rating of 10% coded 5271 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:

CONDITION	VASRD CODE	PERMANENT RATING
Chronic Left Ankle Pain	5271	10%

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20230325, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans Affairs Record

AR20230010585, XXXXXXXXXXX

XXXXXXXXXX

Dear XXXXXXXXXXX:

The Department of Defense Physical Disability Board of Review (DoD PDBR) reviewed your application and found that your disability rating should be modified to 10% 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.