RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2023-00037
SEPARATION DATE: 20090531

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was a National Guard E4, Health Care Specialist, medically separated for "knee impairment residual laxity of the right knee following an ACL [anterior cruciate ligament] reconstruction" and "thumb, limitation of motion, right (dominant)," rated 10% each, with a combined disability rating of 20%.

CI CONTENTION: 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 - 20080804			VARD - 20100305			
Condition	**Code**	**Rating**	**Condition**	**Code**	**Rating**	**Exam**
Right Knee Impairment (Residual Laxity)…	5257	10%	Degenerative Arthritis, Right Knee	5010	10%	20100205
Right Thumb, Limitation of Motion	5228	10%	Status Post Right Thumb Dislocation	5228	0%	20100205
Left Pyelonephritis	Not Unfitting		Gastroesophageal Reflux Disease (Also Claimed as Abdominal Condition)	7399-7346	10%	20100205
Chronic Pyelonephritis	Not Unfitting					
Gastroesophageal Reflux Disease	Not Unfitting					
Headache	Not Unfitting		Tension Headaches	8199-8100	10%	20100205
Insomnia	Not Unfitting		Insomnia	9499-9410	0%	20100205
Bladder Diverticuli	Not Unfitting		No VA Placement			
COMBINED RATING: 20%			**Combined Rating of All VA Conditions: 40%**			

ANALYSIS SUMMARY:

Right Knee Impairment (Residual Laxity). According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI injured his right knee in September 2005, after falling into a hole, and underwent an ACL reconstruction with hamstring autograft in April 2006. The 25 February 2008 MEB NARSUM examination, 15 months prior to separation, noted CI complaints of instability and constant daily pain which interfered with his sleep. Physical findings revealed mild crepitus but no edema, effusion, erythema, or patellar tilt/grind. Range

of motion (ROM) tests demonstrated flexion to 120 degrees (normal 140) and extension to 10 degrees (normal 0), for a total active ROM of 130 degrees. The examiner recorded 1+ Lachman's, but a negative McMurray's test and no joint line tenderness. There was moderate laxity at 0 and 30 degrees of flexion; painful motion was not addressed.

At the 5 February 2010 VA Compensation and Pension (C&P) examination, 9 months after separation, the CI reported pain rated at 7/10, with flare-ups as often as once a day lasting for 24 hours. The examiner documented a normal gait and no edema, instability, abnormal movement, effusion, weakness, tenderness, redness, heat, deformity, malalignment, drainage, subluxation or guarding of movement. All right knee ligament and meniscus stability test were within normal limits, and ROM was from 0-140 degrees; painful motion was not addressed.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the right knee condition 10%, coded 5257 (knee, other impairment), citing slight laxity, and rated in accordance with DoD Instruction 1332.39. The VA also rated the right knee condition 10%, but coded 5010 (traumatic arthritis), based on the C&P examination, citing painful or limited motion of a major joint or group of minor joints. Panel members agreed that a 10% rating, but no higher, was justified for slight knee instability under code 5257. The panel also considered whether an additional rating could be granted for limitation of motion, but noted that although there was decreased ROM during the MEB NARSUM examination, the C&P examination was performed closer to separation and showed full ROM. Because there was insufficient evidence that the CI's right knee was additionally impaired by the mild loss of motion, an additional rating was not warranted. There was also no evidence of painful motion from either the MEB NARSUM or C&P examinations, and therefore no VASRD §4.71a rating higher than the 10% adjudicated by the PEB under any applicable code. 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 knee condition.

Right Thumb Limitation of Motion. According to the STR and MEB NARSUM, the CI's right thumb condition began in September 2005 during the same fall that caused the knee injury. In August 2006, he had a volar plate arthroplasty, with a second surgery a year later for neurolysis and a trigger release. He had a final third revision surgery in January 2008 to remove hardware and repair the volar plate injury.

During the MEB NARSUM examination, he reported significant right thumb pain which was present approximately 60% of the day while awake. He also had occasional numbness after physical therapy or with overuse. The examiner noted tenderness but no signs of inflammation. Interphalangeal joint ROM tests showed flexion to 90 degrees and extension to 20 degrees. The metacarpal phalangeal (MCP) joint demonstrated flexion to 40 degrees and extension 30 degrees, and adduction to 62 degrees. The CI had good apposition between the thumb and the fingers, but decreased grip strength due to recently undergoing surgical intervention.

At the VA C&P examination, the CI reported constant localized right thumb pain that was burning, aching and sharp, and rated at 8/10. Physical examination showed "0 cm" as the measurement between the right thumb tip and pad and all finger tips when the CI attempted to opposed the fingers with the thumb. Right hand strength was within normal limits.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the right thumb condition 10%, coded 5228 (thumb, limitation of motion), citing " only 10 degrees of motion at the MCP… no gap between the right thumb and all finger tips…the thumb web space opens 70 degrees." The VA rated the right thumb condition 0%, coded 5228, based on the C&P examination, citing a noncompensable evaluation "unless there is limitation

of motion of the thumb with a gap of one to two inches (2.5 to 5.1 cm) between the thumb pad and the fingers, with the thumb attempting to oppose the fingers." Panel members agreed that a 10% rating, but no higher, was justified under code 5228. A higher 20% rating requires a gap more than two inches between the thumb pad and the fingers, and this not present in this case. There were no additional appropriate codes to consider. 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 thumb condition.

Contended PEB Conditions: Left Pyelonephritis, Chronic Pyelonephritis, Headaches, Gastroesophageal Reflux Disease, Bladder Diverticuliti, and Insomnia. 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 knee condition and IAW VASRD §4.71a, the panel recommends no change in the PEB adjudication. In the matter of the right thumb condition and IAW VASRD §4.71a, the panel recommends no change in the PEB adjudication. In the matter of the contended left and chronic pyelonephntis, headaches, gastroesophageal reflux disease, bladder diverticuli, and insomnia, 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 20230504, w/atchs
Exhibit B. Service Treatment Record
Exhibit C. Department of Veterans Affairs Record

AR20230009647, XXXXXXXXXX.

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Dear XXXXXXXXXX:

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.