

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME:
BRANCH OF SERVICE: ARMY

CASE: PD-2024-00032
SEPARATION DATE: 20060830

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E2, Basic Trainee, medically separated for "chronic pain in the left knee...and pain in the right (dominant) shoulder..." with a disability rating of 0%.

CI CONTENTION: Her knee and shoulder conditions have worsened, and she requested review of additional conditions not identified by the Medical Evaluation Board (MEB) and/or 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 - 20060815			VARD - NA			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Pain in the Left Knee...and Pain in the Right (Dominant) Shoulder	5099-5003	0%	No VA Examination Proximate to Separation in Evidence			
COMBINED RATING: 0%			COMBINED RATING OF ALL VA CONDITIONS: NA			

ANALYSIS SUMMARY:

Left Knee Pain. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI's left knee condition began in November 2005, with no specific trauma, while in basic training. Radiographic studies from November 2005 revealed a very small joint effusion and mild superficial posterior edema; surgery was not indicated.

The 14 June 2006 MEB NARSUM examination, 3 months prior to separation, noted CI reports of continued of left knee pain, rated at 2-3/10. The examiner referred to his orthopedic examination on 15 May 2006, which was normal except for patellar tenderness. Left knee flexion was to 125 degrees (normal 140) and extension to 5 degrees (normal 0), with tenderness at both range of motion (ROM) extremes. On 28 June 2006, goniometric left knee ROM measurements performed by occupational therapy (OT) revealed flexion to 135 degrees and extension to 0 degrees, with painful motion. There was no VA examination proximate to separation in evidence.

Controlled by: DAF
Controlled by: SAF/MRBD
CUI Categories: SP-MIL/SP-PRVCY
Limited Dissemination Control: N/A
POC: SAF.MRBD.Workflow@us.af.mil

The panel directed attention to its rating recommendation based on the above evidence. The PEB bundled the left knee and right shoulder conditions and applied a single 0% rating, analogously coded 5099-5003 (degenerative arthritis), citing the US Army Physical Disability Agency pain policy. Panel members first considered whether the left knee condition, having been de-coupled from the combined PEB adjudication, remained separately unfitting as established above. The left knee pain was profiled, and the MEB forwarded “left knee retropatellar knee pain syndrome” to the PEB, noting the condition failed to meet retention standards. There was no commander’s statement in evidence. The panel concluded there was not a preponderance of evidence that overcame its presumption that the bundled left knee condition was reasonably considered separately unfitting, and so panel members considered a rating recommendation for the unfitting left knee at the time of separation. Although there was no compensable limitation of flexion (5260) or extension (5261), there was evidence of painful motion with functional loss to justify a 10% rating (based on §4.59, §4.40 and §4.45). Panel members consider other VASRD knee and analogous codes, but all were less applicable and/or not advantageous for 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 knee condition, coded 5099-5003.

Right (Dominant) Shoulder Pain. According to the STR and MEB NARSUM, the CI’s right shoulder condition began in April 2006, without specific injury, while on medical hold for the left knee condition. Radiographic studies showed a possible Bankart tear and small strand of tissue adjacent to the anterior inferior glenoid labrum; surgery was not indicated. At the orthopedic visit in May 2006, “pain elicited by motion of the shoulder” was noted.

The MEB NARSUM examination noted CI complaints of right shoulder pain, with no specific history of trauma, and no relief from multiple non-operative modalities. The examiner referenced his 15 May 2006 orthopedic examination, which showed the right shoulder was neurovascularly intact distally with “full ROM” and no instability. There was acromioclavicular joint tenderness and O’Brien’s testing was mildly positive, but Hawkins, Neer, apprehension and cross-body tests were all negative. Right shoulder ROM tests performed by OT on 28 June 2006 recorded “all AROM [active ROM] is within normal limits but with significant pain (8/10).”

The panel directed attention to its rating recommendation based on the above evidence. As noted, the PEB bundled the left knee and right shoulder conditions and applied a single 0% rating, analogously coded 5099-5003 (degenerative arthritis), citing the US Army Physical Disability Agency pain policy. Panel members concluded there was not a preponderance of evidence that overcame its presumption that the bundled right shoulder condition was reasonably considered separately unfitting, and so the panel considered its rating recommendation for the unfitting right shoulder at the time of separation. While there was no compensable shoulder limitation of motion, panel members agreed a 10% rating was justified with application of VASRD §4.59 (painful motion). Panel members consider other VASRD shoulder and analogous codes, but all were less applicable and/or not advantageous for 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 right shoulder condition, coded 5099-5003.

BOARD FINDINGS: In the matter of the left knee condition, the panel recommends a disability rating of 10%, coded 5099-5003 IAW VASRD §4.71a. In the matter of the right shoulder condition, the panel recommends a disability rating of 10%, coded 5099-5003 IAW VASRD §4.71a. 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 Pain in the Left Knee	5099-503	10%
Pain in the Right (Dominant) Shoulder	5099-5003	10%
	COMBINED	20%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20240223, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record



DEPARTMENT OF THE ARMY
ARMY REVIEW BOARDS AGENCY
251 18TH STREET SOUTH, SUITE 385
ARLINGTON, VA 22202-3531

AR20240013322,

Dear

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

Sincerely,

Enclosure