

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2022-00007
SEPARATION DATE: 20070110

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an E5, Power Generator Repairman, medically separated from the Temporary Disability Retired List (TDRL) for “back pain, post-discectomy” with a disability rating of 0%.

CI CONTENTION: Back pain and range of motion have severely worsened and lumbar radiculopathy persists. He also requested review of an additional condition (acromioclavicular separation) 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 - 20061002			VARD - N/A			
Condition	Code	Rating	Condition	Code	Rating	Exam
Back Pain, Post-Discectomy	5243	0%	No VA Examination Proximate to Separation in Evidence			
COMBINED RATING: 0%			COMBINED RATING OF ALL VA CONDITIONS: 30%			

ANALYSIS SUMMARY:

Back Pain. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI’s low back condition began gradually in May 2001 with no reported trauma or injury. In February 2002, he was involved in a motor vehicle accident that resulted in continued back pain. In July 2002, he underwent an L5-S1 discectomy and hemi-laminectomy. Despite a year of physical therapy, the pain persisted. The CI was separated and placed on the TDRL on 18 November 2003.

At the 7 November 2005 TDRL NARSUM examination, 14 months before separation, the CI reported constant low back pain which increased when standing longer than 30 minutes. He rated morning pain at 8.5/10, which improved to 5-5.5/10 after taking his Tramadol (analgesic opioid). He no longer had pain extending into his left lower extremity but endorsed decreased sensation along the left lateral thigh, leg and dorsum of the left foot. He denied bowel or bladder issues but reported weakness. He had not missed any work in the previous 6 months

due to the back pain. Physical examination noted no “demonstrated weakness,” and thoracolumbar ROM measured with an inclinometer showed flexion to 50 degrees (normal 90), extension to 20 degrees (normal 30), and bilateral flexion and rotation to 30 degrees (normal). There was no VA examination in evidence proximate to separation.

The panel directed attention to its rating recommendation based on the above evidence. The formal reconsideration PEB rated the low back condition 0%, coded 5243 (intervertebral disc syndrome), citing “limitation of range of motion due to pain is not ratable.” Panel members agreed that a 20% rating, and no higher, was justified for thoracolumbar flexion greater than 30 degrees but not greater than 60 degrees, as demonstrated at the TDRL NARSUM examination, which was the closest evaluation to separation. There was no documentation of intervertebral disc syndrome with incapacitating episodes which would provide for a higher rating under that formula. After due deliberation, considering all the evidence and mindful of VASRD §4.3 (reasonable doubt), the panel recommends a disability rating of 20% for the back condition, coded 5243

BOARD FINDINGS: In the matter of the back condition, the panel recommends a disability rating of 20%, coded 5243 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
History of Back Pain, Post-Discectomy	5243	20%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20220113, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

AR20230004893, 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 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.