RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX | CASE: PD-2022-00017
BRANCH OF SERVICE: NAVY | SEPARATION DATE: 20060522

<u>SUMMARY OF CASE</u>: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E6, Medical Field Service Technician, medically separated for “major depression, recurrent, moderate to severe” with a disability rating of 10%.

<u>CI CONTENTION</u>: “Respectfully request re-evaluation of my medical discharge for bi-polar…” He also 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.

<u>SCOPE OF REVIEW</u>: 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.

<u>RATING COMPARISON</u>:

SERVICE PEB - 20060214			VARD - 20060530			
Condition	**Code**	**Rating**	**Condition**	**Code**	**Rating**	**Exam**
Major Depression	9434	10%	Generalized Anxiety Disorder (GAD) with Panic Attacks, Major Depression, and PTSD Secondary to Childhood Experiences	9499-9004	50%	20051116
Anxiety Disorder, Not Otherwise Specified (NOS)	Cat II					
Dysthymic Disorder						
COMBINED RATING: 10%			**COMBINED RATING OF ALL VA CONDITIONS: 80%**			

<u>ANALYSIS SUMMARY</u>:

<u>Major Depressive Disorder (MDD)</u>. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI’s mental health (MH) condition was first documented in July 2005 after his primary care manager learned he had been receiving long-term psychotherapy from a civilian provider. At the time of the assessment, he was found to have moderate to severe MDD, and that he suffered from chronic, early onset depression which he had functioned with over the years.

On 25 March 2005, an MH consult was prompted by allegations of spousal abuse and child neglect made by the CI’s ex-wife. The allegations led to court martial charges in early 2005, which

Controlled by: DAF
Controlled by: SAF/MRBD
CUI Categories: SP-MIL/SP-PRVCY
Limited Dissemination Control: N/A
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were dismissed after his ex-wife confessed to having fabricated the charges as a means of seeking revenge. However, social services found parental neglect. The CI did not report any MH issues and denied experiencing symptoms consistent with a depressive or bipolar condition. The mental status examination (MSE) noted a tense mood and annoyance, but he was cooperative and appropriately engaging with full range of affect. There was no evidence of psychosis or formal thought disorder. Memory was intact and he denied a history of suicidal or homicidal ideation. Content of thought centered around the behaviors of his wife. The examiner found no MH diagnoses and determined the CI psychologically fit for full duty.

In a treatment summary from the CI's civilian provider on 12 July 2005, a diagnosis of undifferentiated schizophrenia was noted, but clinical evidence supporting this diagnosis was not provided in the report.

At the 16 November 2005 VA Compensation and Pension (C&P) examination, 6 months before separation, the CI reported sleep difficulties, anxiety, panic attacks, irritability, anger, and rage. He also stated that did not handle stress well and experienced poor concentration, social isolation, and withdrawal. He denied having depression and did not report any violent behavior. The CI related his problems back to 2003 when he "fell apart." He reported seeing an MH professional about 4 times a week and taking the same mood stabilizing/antipsychotic medication previously prescribed. He lived with his wife and three children and spent leisure time at home watching TV or reading while his family was active outside the home. The MSE was unremarkable except for anxious affect; fund of knowledge and judgment were good. Axis I diagnoses included: GAD with panic attacks "which were identified by the patient as his main problem," major depression, and PTSD secondary to childhood experiences. Mixed personality disorder was recorded as an Axis II condition.

During the 22 December 2005 MEB NARSUM examination, 5 months prior to separation, the CI reported a long-standing history of depression with recent outbursts of anger and rage. The examiner noted he had been in limited duty status since July 2005, and his MH condition required medication but no inpatient treatment. He continued talk therapy with his civilian provider and was prescribed a single mood stabilizing/antipsychotic medication by his psychiatrist. The MSE noted the CI "has always presented as appropriate in appearance and behavior." His speech was described as "digressive," and his affect was mood congruent (appropriate to depression and anxiety). The examiner assessed no clear evidence of a psychotic disorder, but stated the CI "historically maintained, perhaps culturally learned, a superstitious posture, a predisposition to magical thinking." Axis I diagnoses included recurrent, moderate to severe major depression; chronic, early onset dysthymic disorder; and anxiety disorder, NOS. There was no mention of panic attacks, insomnia, memory problems, poor appetite, loss of pleasure, or psychotic symptoms. Based on this examination, the PEB found the CI fit for duty.

The non-medical assessment (NMA) on 5 January 2006 noted the CI was initially assigned duties outside his rate due to anger issues, and that his medical condition would limit his ability to provide direct patient care. He spent 10-12 hours a week attending to medical needs, and he was off one workday a week as recommended by his provider. The NMA noted the CI could only continue limited duty and required MH providers nearby.

In the 27 February 2006 MEB NARSUM addendum, 3 months before separation, the same examiner for the original MEB NARSUM provided new information from the CI, who stated his depression was worse with more prominent feelings of paranoia and anger. He reported that for the previous couple years, he woke up depressed and stayed in a general state of anger with no energy or direction. The MSE noted an appearance of fatigue, slow and tangential speech, and blunted affect. The CI denied suicidal ideations but admitted to longstanding fantasies of violence and homicide without intent or plan. Memory was intact and there was no mention of insomnia, panic attacks, or impaired judgment. The examiner stated that the CI had become

suspicious and was developing sleep impairment. Although the examiner also opined that the CI had "occupational and social impairment with reduced reliability and productivity" due to difficulty with abstract thinking and severe motivation and mood disturbances, clinical evidence to support this assessment was not documented in the treatment record.

At a medication evaluation on 24 March 2006 by his treating psychiatrist, the CI presented for urgent follow-up after he stopped taking his medication and experienced psychotic changes. When he stopped taking his medications for 6-7 days, the CI reported gradual but significant irritability with explosive temper outbursts. He had not worked since 4 March 2006, and described manic symptoms, no sleep for a week, and 2-3 panic attacks a week, which occurred in the middle of the night. The MSE noted pressured speech, elevated mood, and disturbance in thought content and process. Suicidal or homicidal ideations were absent. The examiner prescribed medications to address mood and psychosis, and recorded Axis I diagnoses of bipolar I disorder (most recent episode manic with psychotic features) and panic disorder.

Treatment records going forward demonstrated a chronic but relatively stable condition that required medication. Of note, the CI reported being hospitalized in February 2006, but evidence of this inpatient treatment was not found in the STR. A VA MH progress note entry on 18 April 2006 noted that the CI's current medications were working, and he had no complaints. He reported a more stable and normal mood, with 1-2 hours of depressed mood in the mornings on some days. He enjoyed feeding his bird and activities with his children. He experienced occasional irritability and denied recent hallucinations or delusions. Panic attacks were not mentioned. The MSE was unremarkable except for talkativeness. A VA MH examination in September 2006 recorded normal mood and affect.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the MH condition 10%, coded 9434 (MDD), and listed anxiety disorder, NOS, and dysthymic disorder as related Category II conditions (contributed to the primary unfitting condition but separately ratable). Panel members agreed the Category II diagnoses were properly subsumed under the MDD and that separate ratings would violate VASRD §4.14 (avoidance of pyramiding). The VA rated the MH condition 50%, analogously coded 9499-9400 (generalized anxiety disorder), based on the C&P examination.

The panel first considered the provisions of VASRD §4.129 for a "mental disorder that develops in service as a result of a highly stressful event," and agreed there was no evidence of a traumatic event or stressor causing the unfitting MH condition; thus, application of VASRD §4.129 was not appropriate in this case.

Panel members next considered whether the evidence at the time of separation supported a §4.130 rating higher than the 10% rating adjudicated by the PEB. The panel noted the absence of emergency room (ER) or inpatient treatment, but a history of longstanding psychiatric problems compounded by childhood trauma. Although the STR evidence showed good stability at times, especially with medication use, there were brief periods of mood instability with anger, sleep disturbance, and symptoms suggestive of bipolar illness. While the CI reported frequent panic attacks, there were no reports of associated ER treatment or problems with duty performance. Panel members noted that the CI responded well to his medication and that even when he stopped taking it for a week in March 2006, he did not require an ER visit or hospitalization. The treatment record continued to show a chronic and relatively stable condition that required medication. The panel agreed that at the time of separation, the CI's condition was best reflected by a 30% rating, and no higher, for "occupational and social impairment with occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks." After due deliberation, considering all the evidence and mindful of VASRD §4.3 (reasonable doubt), the panel recommends a disability rating of 30% for the mental health condition, coded 9434.

BOARD FINDINGS: In the matter of the recurrent major depression, the panel recommends a disability rating of 30%, coded 9434 IAW VASRD §4.130. 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; and, that the discharge with severance pay be re-characterized to reflect permanent disability retirement, effective the date of medical separation:

CONDITION	VASRD CODE	PERMANENT RATING
Major Depression, Recurrent	9434	30%

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20220131, w/atchs
Exhibit B. Service Treatment Record
Exhibit C. Department of Veterans Affairs Record

3/9/2023

THE ASSISTANT SECRETARY OF THE NAVY
(MANPOWER AND RESERVE AFFAIRS)
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WASHINGTON, D.C. 20350-1000

6040
Memo00/01

MEMORANDUM FOR COMMANDER, NAVY PERSONNEL COMMAND

Subj: PHYSICAL DISABILITY BOARD OF REVIEW RECOMMENDATIONS

Ref: (a) DODI 6040.44
(b) PDBR ltr dtd 28 Mar 23 ICOXXXXXXXXXXX
(c) PDBR ltr dtd 23 Feb 23 ICO XXXXXXXXXXX

1. Pursuant to references (a), the recommendation of the Physical Disability Board of Review set forth in references (b) and (c) are approved. The official record of the following individuals are to be corrected as follows:

b. XXXXXXXXXX, former USN: After carefully reviewing the application and medical separation case file, the PDBR recommended the separation be re-characterized to reflect permanent disability retirement with a combined disability rating of 30% rather than 10% (increased from 20 percent). effective date of medical separation.

2. Please take action to implement these decisions and provide notification to the above individuals once those actions are complete.