

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX  
BRANCH OF SERVICE: ARMY

CASE: PD-2022-00057  
SEPARATION DATE: 20050922

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**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E5, Combat Engineer, medically separated for “chronic subjective back pain” with a disability rating of 10%.

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**CI CONTENTION:** “Severe Disk Degenerative Disease L-3 L-4 L-5.” The CI also requested review of additional conditions not identified by the Medical Evaluation Board (MEB) and Physical Evaluation Board (PEB). The complete submission is at Exhibit A.

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**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.

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**RATING COMPARISON:**

SERVICE PEB - 20050822			VARD - NA			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Subjective Back Pain	5243	10%	No VA Examination Proximate to Separation in Evidence			
<b>COMBINED RATING: 10%</b>			<b>COMBINED RATING OF ALL VA CONDITIONS: NA</b>			

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**ANALYSIS SUMMARY:**

**Chronic Subjective Back Pain.** According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI’s back condition began in April 1998 after heavy lifting. At the 29 March 2005 orthopedic examination, the CI complained of lower back pain (LBP). Range of motion (ROM) testing was normal in all planes, but there was tenderness. The 2 June 2005 MEB NARSUM examination, 4 months prior to separation, noted complaints of marked chronic low back pain. Lumbar ROM testing showed 55 degrees of flexion with pain. The CI had difficulty with heel/toe walk due to referred back pain. Radiographic studies showed herniated discs at L3/4 and L5/S1 and degenerative disc disease at L4/5. There was no VA Compensation and Pension examination proximate to separation in evidence. At the VA Primary Care intake appointment on 21 March 2006, 6 months after separation, the CI reported chronic LBP radiating down legs. Physical examination showed lumbar tenderness and spasm.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the back condition 10%, coded 5243 (intervertebral disc syndrome), citing pain-limited ROM. The panel noted that the examinations in service that were most proximate to

separation were examinations of the lumber, not thoracolumbar spine. Since the examinations presented to the PEB are non-standard for rating purposes, the panel attempted to standardize them to the degree possible by noting the percentage of the total normal range examination. The 2 June 2005 MEB NARSUM examination noted a forward flexion of the lumbar spine of 55 degrees. Normal lumbar forward flexion is generally accepted to be between 50-60 degrees. Giving the CI the maximum benefit and using 60 degrees as the normal, 55 degrees is 92% of normal. With 90 degrees being the normal thoracolumbar flexion and again, giving the CI the maximum benefit, that would equate to approximately 82 degrees (80) forward flexion of the thoracolumbar spine. The panel agreed that a 10% rating, but no higher, was justified for limitation of flexion of the thoracolumbar spine. There was no evidence of muscle spasm or guarding that resulted in abnormal gait or abnormal spinal contour to justify the next higher 20% rating. Although there was evidence for intervertebral disc syndrome, there was no evidence of incapacitating episodes requiring physician-prescribed bed rest to warrant consideration of rating under the alternate VASRD formula for that condition.

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 back condition.

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**BOARD FINDINGS:** In the matter of the back condition and IAW VASRD §4.71a, the panel recommends no change in the PEB adjudication. 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.

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The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20220421, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

AR20230009447,

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Dear XXXXXXXXXXXX:

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. and record of proceedings (copy enclosed), and you that your application to the DoD PDBR is de

This decision is final. Recourse within the De Army is exhausted; however, you have the optic appropriate jurisdiction.

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MICHAEL T. MAHONEY

Deputy Assistant Secretary of the Army (RB)