

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX
BRANCH OF SERVICE: NAVY

CASE: PD-2022-00068
SEPARATION DATE: 20060314

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E6, F/A-18 Environmental Control Systems Safety Equipment Maintainer, medically separated for “C-7 radiculitis secondary to cervical spine degenerative disc disease [DDD]” and “right shoulder calcific subacromial bursitis,” rated 10% each, with a combined disability rating of 20%.

CI CONTENTION: “The physical injuries that were deemed to make me unfit for duty ended my military career and the chance to serve until regular retirement.” 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 - 20060124			VARD - 20070130			
Condition	Code	Rating	Condition	Code	Rating	Exam
C-7 Radiculitis (Cervical Spine DDD)	5242-8716	10%	DDD of Cervical Spine	5243	10%	20060607
Right Shoulder Bursitis	5299-5003	10%	Right Shoulder Degenerative Joint Disease and Impingement Syndrome	5003	10%	20060607
Right Shoulder Impingement Syndrome	Cat II					
Right Shoulder Instability	Cat II					
COMBINED RATING: 20%			COMBINED RATING OF ALL VA CONDITIONS: 20%			

ANALYSIS SUMMARY:

Cervical Spine C-7 Radiculitis. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI’s cervical spine condition was diagnosed in January 2006 after he reported neck stiffness for several months. He denied any specific injury or trauma, and surgery was not indicated.

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
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During the 4 Aug 2005 MEB NARSUM examination, 7 months prior to separation, the CI did not mention neck pain but did report right upper extremity numbness. The examiner cited the results of an undated electromyogram (EMG) and nerve conduction velocity (NCV) study, which demonstrated no evidence of ulnar nerve abnormalities. During the 16 August 2005 MEB examination (recorded on DD Forms 2807-1 and 2808), physical findings showed a normal spine. The 2 December 2005 MEB NARSUM orthopedic addendum, 3 months prior to separation, did not address neck pain or radiculopathy.

At a neurology examination on 11 January 2006, 2 months before separation, the neurologist opined that the right upper extremity symptoms were a result of a mild peripheral nerve injury due to the CI's position during his right shoulder surgery, with an aftereffect of right ulnar nerve sensory symptoms (temporary and not related to the neck). The examiner also noted an EMG/NCV study was negative for objective evidence of an ulnar nerve condition. Radiographic studies from 19 January 2006 showed DDD with small central disc bulges as well as bone spurs causing narrowing and compression at C3-4, C4-5, and C5-6.

At the 7 June 2006 VA Compensation and Pension (C&P) examination, 3 months after separation, the CI reported neck stiffness for "a few months" and that he had been diagnosed with cervical spine arthritis and a herniated disc in January 2006. He described a constant dull ache, rated at 2-3/10, that worsened after sleeping on "the wrong side." Physical examination showed cervical spine flexion to 35 degrees (normal 45) and a combined ROM of 210 degrees (normal 340), with painful motion but no additional limitation after repetition. Spinal curvature was normal.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the cervical spine condition 10%, dual coded 5242-8716 (degenerative arthritis of the spine-ularn nerve neuralgia). The VA also rated the cervical spine condition 10% but coded 5243 (intervertebral disc syndrome (IVDS)), based on the C&P examination, citing forward flexion greater than 30 degrees but not greater than 40 degrees and combined ROM greater than 170 degrees but not greater than 335 degrees. Panel members agreed that a 10% rating, but no higher, was justified for limitation of flexion, as reported on the VA examination. While a 10% rating was equally justified for the presence of painful motion, this provided no benefit to the CI. There was no muscle spasm or guarding severe enough to result in an abnormal gait or spinal contour, thus the next higher 20% rating was not justified on this basis. The panel considered whether a higher rating could be justified with the ulnar nerve code used by the PEB. When the involvement is wholly sensory, the rating should be for 10% for mild, or at most, 20% for moderate. The panel determined since there was no evidence of motor involvement, a higher rating than the PEB rating of 10% was not supported. There was no documentation of IVDS 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 concluded there was insufficient cause to recommend a change in the PEB adjudication for the cervical spine condition.

Right Shoulder Bursitis. According to the STR and the MEB NARSUM, the right-hand dominant CI had right shoulder open surgery in April 2004 for a torn rotator cuff. In June 2005, he underwent arthroscopic Bankart and Mumford (excision of the distal clavicle) procedures as well as arthroscopic debridement of calcific deposits and subacromial decompression.

The MEB NARSUM orthopedic addendum noted complaints of right shoulder pain that increased with activities. Physical findings revealed "good range of motion, nearly full, with some discomfort and weakness," but no instability.

At the VA C&P examination, the CI reported numbness and tingling in the right forearm and hand on the ulnar side. He described his pain as a dull ache, rated at 5/10, and reported flare-ups with repetitive overhead movements. He had discomfort when driving but denied any other effect on

daily activities. Upon examination, flexion was to 180 degrees (normal) and abduction to 175 degrees (normal 180), after repetition and with painful motion. The examiner noted tenderness and that raising the right arm above shoulder level caused right hand and forearm numbness.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the right shoulder condition 10%, analogously coded 5299-5003 (degenerative arthritis), and listed right shoulder impingement syndrome and chronic instability with Bankart lesion as related Category II conditions (contribute to the primary unfitting condition but not separately ratable). The impairment from these diagnoses were properly subsumed under the overall rating for the right shoulder calcific subacromial bursitis IAW §4.14 (avoidance of pyramiding; more than one rating based on the same impairment is prohibited). The VA also rated the right shoulder condition 10%, coded 5003 (degenerative arthritis), based on the C&P examination, citing painful or limited motion. Panel members noted that the VASRD §4.71a threshold for rating for ROM impairment under code 5201 (arm limitation of motion) is “at shoulder level” (approximately 90 degrees from the side), and the examinations in evidence demonstrated motion above this level. Although there was insufficient limitation of motion to support a rating under code 5201, the panel agreed that a 10% rating was justified with application of VASRD §4.59 (painful motion) using VA rating criteria at the time of separation. Panel members considered other VASRD shoulder and analogous codes, but all were less applicable and not advantageous for rating. There was therefore no higher rating than the 10% adjudicated by the PEB available under any applicable VASRD 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 shoulder condition.

BOARD FINDINGS: In the matter of the cervical spine condition and IAW VASRD §4.71a, the panel recommends no change in the PEB adjudication. In the matter of the right shoulder 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.

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20220725, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

5/3/2023



DEPARTMENT OF THE NAVY
SECRETARY OF THE NAVY COUNCIL OF REVIEW BOARDS
720 KENNON STREET SE STE 309
WASHINGTON NAVY YARD, DC 20374-5023

IN REPLY REFER TO
6040
CORB: 001
22 Aug 23

From: Director, Secretary of the Navy Council of Review Boards

Subj: Physical Disability Board of Review Determination

Ref: (a) DoDI 6040.44

1. The Physical Disability Board of Review (PBDR) reviewed your case in accordance with reference (a) and forwarded their recommendation for action.
2. On 28 July 2023, the Assistant Secretary of the Navy (Manpower and Reserve Affairs) accepted the PBDR's recommendation of no change to your characterization of separation or disability rating assigned.
3. The PBDR determination is final and not subject to appeal or review.