

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX  
BRANCH OF SERVICE: ARMY

CASE: PD-2022-00090  
SEPARATION DATE: 20050901

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**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E4, Automated Logistical Specialist, medically separated for “chronic back pain” and “chronic neck pain,” rated 10% and 0%, respectively, with a combined disability rating of 10%

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**CI CONTENTION:** Review all conditions as well as 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 - 20050628			VARD - 20080528			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Back Pain	5299-5237	10%	Thoracolumbar Spine Pain	5299-5239	NSC	STR
Chronic Neck Pain	5299-5237	0%	Cervical Spine Pain	5237	NSC	STR
Cubital Tunnel Syndrome	Not Unfitting		Cubital Tunnel Syndrome, Left Hand, 4th & 5th Fingers	8516	10%	STR
Anal Fissure			No VA Placement			
<b>COMBINED RATING: 10%</b>			<b>COMBINED RATING OF ALL VA CONDITIONS: 10%</b>			

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**ANALYSIS SUMMARY:**

**Back Pain.** According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI’s back condition began in June 2004 after a motor vehicle accident (MVA). Chiropractic measures, physical therapy (PT), and medication did not allow him to return to duty in his specialty. Radiologic studies (MRI and EMG) were all essentially negative.

During the 29 March 2005 MEB examination (recorded on DD Forms 2807-1 and 2808), 6 months prior to separation, the CI reported pain in the entire back. Physical examination revealed full range of motion (ROM) with diffuse back tenderness and pain on flexion in the thoracolumbar region. The May 2005 MEB NARSUM examination, 4 months before separation, noted complaints of continuous aching spine and neck pain rated at 5/10 that day, and 8/10 at worst. Physical

examination showed an intact spine with full ROM with tenderness along the mid-thoracic to lower lumbar region; imaging studies were negative. At a PT visit on 10 June 2005, goniometrically measured ROM showed flexion to 55 degrees (normal 90) and a combined ROM of 180 degrees (normal 240). There was no VA examination proximate to separation in evidence.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the back condition 10%, analogously coded 5237 (lumbosacral strain), citing full ROM, but pain with thoracolumbar flexion. In reviewing the STR, panel members noted the documentation of full ROM for the entire spine (cervical, thoracic, lumbar, and sacral) at both MEB examinations along with normal thoracolumbar MRI and X-ray results. The panel agreed that the June PT ROM study was an outlier as the findings (clinical and radiographic) were not consistent and appeared to be in error for rotation and did not match VASRD guidelines. Thus, panel members determined that a 10% rating, but no higher, was justified for full ROM with pain on flexion, as reported on the most complete MEB examinations. 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. 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 concluded there was insufficient cause to recommend a change in the PEB adjudication for the chronic back pain.

Chronic Neck Pain. According to the STR and MEB NARSUM, the CI's neck pain also began in June 2004 after the MVA. Chiropractic measures, PT and medication did not allow him to return to duty in his specialty. Radiologic studies (MRI and EMG) were all essentially negative.

During the MEB examination, the CI reported back pain and numbness in the left hand and both feet when sitting. The MEB NARSUM examiner noted complaints of continuous aching spine and neck pain rated at 5/10 that day, and 8/10 at worst. Physical findings showed an intact spine with full ROM and tenderness along the mid-thoracic to lower lumbar region. Imaging studies were negative. At the 10 June 2005 PT visit, goniometrically measured cervical spine flexion was recorded as 40 degrees (normal 45) with a combined ROM of 260 degrees (normal 340).

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the neck condition 0%, analogously coded 5237, citing a negative cervical MRI, no focal neurological deficits, and forward flexion of 46 degrees. Panel members first noted this flexion measurement quoted by the PEB was passive and not compliant with VASRD guidelines requiring active ROM findings. The MEB examination documented full ROM of the spine and did not list a cervical spine diagnosis or defect. The MEB NARSUM examiner also recorded full ROM of the spine and did not document cervical spine tenderness or painful motion. The panel also noted the neck condition was not profiled, and that MRI and X-ray results were unremarkable. The panel agreed that the June PT ROM study was an outlier as the findings (clinical and radiographic) were not consistent and appeared to be in error for rotation and did not match VASRD guidelines. 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 chronic neck pain.

Contended PEB Conditions: Cubital Tunnel Syndrome and Anal Fissure. The panel's main charge is to assess the fairness of the PEB determination that the contended conditions were not unfitting. Neither of the conditions were profiled and there was no commander's statement in evidence. Although the cubital tunnel syndrome was noted to fail retention standards, the MEB NARSUM examiner's only finding was numbness of the left fourth and fifth finger with normal strength. Panel members found no explanation for the opinion that the condition failed retention standards. The CI's profile was for back pain only and did not reflect any restrictions related to the neck or upper extremity. The panel did not find any performance-based evidence

from the record that either of the conditions significantly interfered with satisfactory duty performance at separation. After due deliberation, the panel concluded there was insufficient cause to recommend a change in the PEB fitness determinations for the contended conditions, so no additional disability ratings are recommended.

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**BOARD FINDINGS:** In the matter of the chronic back pain and IAW VASRD §4.71a, the panel recommends no change in the PEB adjudication. In the matter of the chronic neck pain and IAW VASRD §4.71a, the panel recommends no change in the PEB adjudication. In the matter of the contended cubital tunnel syndrome and anal fissure, the panel recommends no change from the PEB determinations as not unfitting. 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 20220902, w/atchs  
Exhibit B. Service Treatment Record  
Exhibit C. Department of Veterans Affairs Record

AR20240006230

Dear XXXXXXXXXX:

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. I have reviewed the Board's recommendation and record of proceedings (copy enclosed), and I accept its recommendation. I regret to inform you that your application to the DoD PDBR is denied.

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.