

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2022-00091
SEPARATION DATE: 20060306

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E4, UH-60 Helicopter Repair Mechanic, medically separated for "chronic low back pain" with a disability rating of 0%.

CI CONTENTION: He should be fully medically retired at greater than 30%. 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.

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 - 20060104 | | | VARD - 20060728 | | | |
|----------------------------|------|--------|--|------|--------|----------|
| Condition | Code | Rating | Condition | Code | Rating | Exam |
| Back Pain | 5243 | 0% | Chronic Back Pain, Status Post Discectomy L5-S1 | 5237 | 10% | 20060710 |
| COMBINED RATING: 0% | | | COMBINED RATING OF ALL VA CONDITIONS: 20% | | | |

ANALYSIS SUMMARY:

Back Pain. According to the service treatment record and MEB narrative summary (NARSUM), the CI underwent a right discectomy for a herniated disc at L5-S1 in February 2005. This resolved his radiculopathy and physical therapy (PT) produced improvement, but the wear of body armor exacerbated his back pain, and he could no longer continue serving in his specialty.

The 25 October 2005 MEB NARSUM examination, 5 months prior to separation, noted complaints of back pain, rated as high as 8-9/10 with activity, and occasionally radiating to the right leg. Physical examination revealed tenderness and straight leg raise testing was positive bilaterally, but gait was normal and, motor function and sensation were intact. The 5 November 2005 MEB PT range of motion (ROM) revealed flexion of 80 degrees (normal 90) and combined ROM of 215 degrees (normal 240), with pain in multiple planes.

At the 10 July 2006 VA Compensation and Pension (C&P) examination, 4 months after separation, the CI reported low back pain, rated at 5/10, radiating down the right leg with some right foot numbness. Physical examination showed normal gait, but some tenderness in the

lower lumbar and upper sacral areas. The ROM measurements were normal with no additional limitation with repetitive motion. However, the examiner noted pain in all planes of motion with repetition. Sensory examination revealed normal legs with no muscle atrophy, but slight decreased sensation of the right foot, compared to the left.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the back condition 0%, coded 5243 (intervertebral disc syndrome), citing “normal gait, lumbar tenderness and 90 degrees flexion, limited by pain.” The VA rated the back condition 10%, coded 5237 (lumbosacral strain), based on the C&P examination, citing “pain on motion and tenderness to palpation in the lumbar areas.” Panel members noted the NARSUM examination supported a 10% rating for limitation of motion. There was also evidence of painful motion and localized tenderness documented in both examinations warranting an alternative 10% rating. There was no spasm or guarding causing altered gait or contour at either examination to support a rating higher than 10%. 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 10% for the back condition, coded 5243.

BOARD FINDINGS: In the matter of the back condition, the panel recommends a disability rating of 10%, 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 |
|-----------------------|-------------------|-------------------------|
| Chronic Low Back Pain | 5243 | 10% |

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20220913, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

AR20230008349, XXXXXXXXXXXX

Dear XXXXXXXXXXXX:

The Department of Defense Physical Disability Board of Review (DoD PDDBR) reviewed your application and found that your disability rating should be modified 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.