

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2022-00109
SEPARATION DATE: 20020617

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E4, Chaplain Assistant, medically separated for “daily cervicogenic headaches,” with a disability rating of 10%.

CI CONTENTION: “After being hit in the head with a duffel bag on active duty I had migraines and have had migraines ever since. 10% should not have been an amount that was awarded to me.” 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 - 20020304			VARD - 20021212			
Condition	Code	Rating	Condition	Code	Rating	Exam
Daily Cervicogenic Headaches	5399-5323	10%	Migraine Headaches	8199-8100	NSC	20021016
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: 0%			

ANALYSIS SUMMARY:

Daily Cervicogenic Headaches. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI’s headaches began in June 1999 of unknown etiology. He was trialed on multiple medications without relief. Brain MRI in January 2000 showed a mild Chiari I malformation. The CI was evaluated by neurology and diagnosed with headaches with a migraine component; a second neurology consult diagnosed cervicogenic headaches.

At the September 2001 MEB examination (recorded on DD Forms 2807-1 and 2808), the CI reported occasional dizziness with headaches. Physical examination was unremarkable. The 1 October 2001 MEB NARSUM examination, 9 months prior to separation, noted complaints of daily headaches. The physical examination showed normal head and neck. Neurological examination was normal, including cerebellar function. The NARSUM indicated the CI had three prostrating headaches per week with no relief from treatment.

An MEB NARSUM addendum on 20 January 2002, noted the Chiari I malformation and the headaches were separate conditions. The addendum indicated the CI had two prostrating headaches per week. On 1 March 2002, a neurologist stated the Chiari malformation may contribute to the headaches, but it was not possible to state exactly how much or if at all. He also stated the CI had no other neurologic findings due to the Chiari malformation and therefore would "lean toward" the malformation as an incidental finding and not a significant factor in the CI's headaches.

At the 29 August 2002 VA Compensation and Pension (C&P) examination, 2 months after separation, the CI reported the headaches increased in severity three or four times a month and were associated with nausea/vomiting. He needed to go home and go to a dark room. The VA examiner noted that electrodiagnostic studies of the brain while in the military were negative.

During the 16 October 2002 VA C&P neurological examination, the CI reported daily headaches which caused him to miss college classes approximately once per week and at other times he had to leave class early due to the severity of his headaches. The VA neurologist reviewed the CI's brain electrodiagnostic studies from the military and opined that the headaches were likely due to the Chiari malformation, and they did not fit criteria for migraine or vascular type headaches. The brain MRI on 9 November 2002 was negative.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the headaches 10%, analogously coded 5323 (muscle group XXIII injuries), citing a moderate rating. The VA determined the headaches were not service connected because in their opinion they were due to the Chiari 1 malformation, a congenital problem. Rating guidance under diagnostic code 8100 (migraine headaches) is based on the frequency of "prostrating attacks" over the "last several months."

The VASRD does not further define prostrating attacks, however commonly accepted definitions include "utter physical exhaustion or helplessness" (Webster's New World Dictionary of American English), "complete physical or mental exhaustion" or "extreme exhaustion or powerlessness" (Dorland's Illustrated Medical Dictionary).

Panel members considered the evidence and concluded that during the several months prior to separation, the CI experienced prostrating headaches occurring on average at least once per month to support a 30% rating, under code 8100; however, there was no evidence of prostrating attacks that were frequent, prolonged, and productive of severe economic inadaptability to support the next higher rating of 50%.

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 headaches, coded 8100.

BOARD FINDINGS: In the matter of the cervicogenic headaches, the panel recommends a disability rating of 30%, coded 8100 IAW VASRD §4.124a. 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
Daily Cervicogenic Headaches	8100	30%

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20221031, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans Affairs Record

AR20230008103, XXXXXXXXXX

XXXXXXXXXX

Dear XXXXXXXXXX:

I accept the recommendation of the Department of Defense Physical Disability Board of Review (DoD PDBR) to re-characterize your separation as a permanent disability retirement with the combined disability rating of 30% effective the date of your medical separation for disability with retirement. Enclosed is a copy of the Board's recommendation and record of proceedings for your information.

The re-characterization of your separation as a disability retirement will result in an adjustment to your pay providing retirement pay from the date of your original medical separation minus the amount of severance pay you were previously paid at separation.

The accepted DoD PDBR recommendation has been forwarded to the Army Physical Disability Agency for required correction of records and then to the U.S. Defense Finance and Accounting Service to make the necessary adjustment to your pay and allowances. These agencies will provide you with official notification by mail as soon as the directed corrections have been made and will provide information on your retirement benefits. Due to the large number of cases in process, please be advised that it may be several months before you receive notification that the corrections are completed and pay adjusted. Inquiry concerning your correction of records should be addressed to the U.S. Army Physical Disability Agency, 1835 Army Boulevard, Building 2000, JBSA, Fort Sam Houston, TX 78234.

A copy of this decision has also been provided to the Department of Veterans Affairs.