

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2022-00111
SEPARATION DATE: 20050414

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

CI CONTENTION: His condition has worsened over time. He also requested review of additional conditions not identified by the Medical Evaluation Board (MEB) and/or 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 - 20050114			VARD - 20050906			
Condition	Code	Rating	Condition	Code	Rating	Exam
Low Back Pain	5237	10%	Low Back Pain with Degenerative Disc Disease	5237	20%	20050716
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: 30%			

ANALYSIS SUMMARY:

Low Back Pain. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI’s low back pain began in January 2004 after slipping on ice. Conservative treatment with nonsteroidal anti-inflammatory drugs and physical therapy did not improve his condition and he declined surgery. Radiographic evidence (X-ray) on 4 February 2003 recorded a normal lumbar spine, and an MRI on 12 May 2004 revealed no evidence of lumbar disc herniation but noted desiccation at the L5-S1 level.

At the 10 August 2004 orthopedic examination, the CI complained of continued right-sided pain extending into the posterior right lower extremity to knee level. Physical examination noted right-sided pain with palpation over the L4-5 paraspinous muscles, and flexion to 70 degrees (normal 90) with a combined ROM of 205 degrees (normal 240).

The 6 December 2004 MEB NARSUM examination, 4 months prior to separation, documented CI complaints of sharp pain caused by bending, standing or sitting for prolonged periods, as well as leg numbness and pain. The examiner recorded a normal gait but decreased lordosis and

mild tenderness along the right paravertebral muscles with mild hypertonicity and hypertrophy. Measured range of motion (ROM) showed flexion to 80 degrees and a combined ROM of 140 degrees. Muscle strength was 5/5 with normal sensory, motor and reflex tests.

At the 16 July 2005 VA Compensation and Pension (C&P) examination, 3 months after separation, the CI reported lower lumbar pain that occasionally radiated down the right leg with some associated numbness; flareups occurred with walking for long periods. Physical examination showed a normal gait but tenderness and spasm in the lower lumbar paraspinal region. Flexion was to 90 degrees, with pain, and a combined ROM of 215 degrees. Neuromotor sensory and deep tendon reflexes were normal.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the low back condition 10%, coded 5237 (lumbosacral strain), citing flexion limited to 80 degrees, paraspinal tenderness, and no radiculopathy or muscle spasm. The VA rated the low back condition 20%, coded 5237, based on the C&P examination, citing thoracolumbar forward flexion greater than 30 degrees, but not greater than 60 degrees; or combined ROM not greater than 120 degrees; and evidence of muscle spasm. The panel agreed that a 10% rating, but no higher, was justified for limitation of flexion (greater than 60 degrees but not greater than 85 degrees) and/or combined ROM (greater than 120 degrees but not greater than 235 degrees), as reported on the MEB NARSUM and VA C&P examinations. Although there was muscle spasm, it was not 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 evidence of intervertebral disc syndrome which resulted in incapacitating episodes requiring physician-prescribed bed rest to warrant consideration of rating under that alternate VASRD 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 low back condition.

BOARD FINDINGS: In the matter of the low 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.

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20221102, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record



DEPARTMENT OF THE ARMY
ARMY REVIEW BOARDS AGENCY
25118TH STREET SOUTH, SUITE 385
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AR20230008098, XXXXXXXXXX

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Dear XXXXXXXXXXXXX:

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.