

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME:
BRANCH OF SERVICE: AIR FORCE

CASE: PD-2022-00113
SEPARATION DATE: 20071010

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E4, Inflight Refueling Tech, medically separated for "major depressive disorder [MDD]," with a disability rating of 30%, reduced by 20% to 10% due to having existed prior to service (EPTS) with permanent military service aggravation.

CI CONTENTION: The CI submitted a lengthy contention requesting review of his unfitting MDD. 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 - 20070920			VARD - 20080602			
Condition	Code	Rating	Condition	Code	Rating	Exam
MDD	9434	10%	MDD with Panic Disorder	9434	30%	20080130
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: 30%			

ANALYSIS SUMMARY:

Major Depressive Disorder. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI's treatment for MDD began in March 2007, but his symptoms started approximately 18 months prior to beginning treatment. In addition to depression, the CI had panic attacks that initially occurred daily, but with medication the attacks decreased to once a week. The CI's condition did not require emergency room treatment or hospitalization.

The 19 July 2007 MEB NARSUM examination, 3 months prior to separation, noted complaints of depressed mood and panic attacks, improved with medication and psychotherapy. His medication included an antidepressant and an antipsychotic medication to augment the effect of the antidepressant. He also took a benzodiazepine medication as needed for anxiety. His

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depressive symptoms did not include suicidal ideation. There was no mention of problems with sleep, memory or concentration. The mental status examination (MSE) documented an “alright” mood, and affect was noted as “dysphoric and anhedonic.” There was no impairment in thought process, and no evidence of a thought disorder or psychosis. Insight and judgment were fair. The examiner stated, “his current symptoms are not fully in remission and despite adequate medication and initiating psychotherapy he remains in a moderate episode.”

At the 30 January 2008 VA Compensation and Pension (C&P) examination, 3 months after separation, the CI reported his panic attacks essentially stopped in November 2007. The CI noted he was prescribed antipsychotic medication while in Service for treatment of poor sleep, and indicated he no longer used that medication. He continued taking the antidepressant medication and described his depressive symptoms as being “well controlled at this time.” The MSE was unremarkable except for flat mood and blunted affect.

Panel members directed attention to their rating recommendation based on the above evidence. The PEB rated the MDD 30%, coded 9434 (MDD), citing that the condition EPTS with permanent military service aggravation, subtracting 20% with a final rating of 10%. The VA rated the MDD 30%, coded 9434, based on the C&P examination, citing the VASRD rating criteria for a 30% rating.

The PEB, made no remarks regarding rationale for its decision. It was simply noted “EPTS with permanent military aggravation; current rating 30, less EPTS factor minus 20.” The PEB noted that the CI’s mood was slowly improving, and that medication was working. There was no date provided for the onset of the CI’s condition.

Panel members noted the underpinning for the condition EPTS, on which the deduction hinges, is overly tenuous. The NARSUM indicated severe disability for continued military service and moderate disability for occupational functioning. The examiner stated the CI’s mental health condition was moderate. The NARSUM noted the self-report of a pre-existing mental condition, but offered no evidence to support a pre-existing MDD, albeit it was noted as “recurrent.” However, the diagnosis of MDD or any mental disorder was not recorded in the STR at the time of entry into service. Even if the MDD did in fact EPTS, the process itself of clinically extricating the disability attendant to pre-service impairment versus the in-service is overly speculative without a directed opinion from the examiner addressing the degree of contribution from each timeframe. No such input from a psychiatric examiner is in evidence; thus, the panel could not fairly apportion a deduction even if the condition did EPTS. Having concluded that no deduction should be applied, members turned to deliberation of a fair rating (IAW VASRD §4.130) of the overall psychiatric disability in evidence at separation. The NARSUM noted the absence of history of suicidal ideation while on active duty, and the MSE was unremarkable except for mood and affect. It was also noted that panic attacks had decreased to about one a week, but there was no mention of chronic insomnia, poor concentration, or memory issues. The C&P examination noted panic attacks had ended one month after separation, and there was no need for continued use of the antipsychotic medication for sleep. The MSE was unremarkable except for flat mood and blunted affect. His depressive symptoms were controlled with medication. Therefore, panel members agreed, although the STR supports a rating less than 30%, the deduction of 20% cannot be recommended by the panel. 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 MDD, coded 9434.

BOARD FINDINGS: In the matter of the MDD, the panel recommends a disability rating of 30%, coded 9434 IAW VASRD §4.130. 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
Major Depressive Disorder	9434	30%

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20221029, w/atchs

Exhibit B. Service Treatment Record

Exhibit C. Department of Veterans Affairs Record



CUI//SP-PRVCY
DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

SAF/MRB
3351 CELMERS LANE
JBA NAF WASHINGTON, MD 20762-6435

Dear

Reference your application submitted under the provisions of DoDI 6040.44 (Section 1554, 10 USC), PDBR Case Number PD-2022-00113.

After careful consideration of your application and treatment records, the Physical Disability Board of Review determined that the rating assigned at the time of final disposition of your disability evaluation system processing was not in accordance with the guidelines of the Veterans Affairs Schedule for Rating Disabilities. Accordingly, the Board recommended your separation be re-characterized to reflect disability retirement, rather than separation with severance pay.

I have carefully reviewed the evidence of record and the recommendation of the Board. I concur with that finding, accept the recommendation and determined that your records should be corrected accordingly. The office responsible for making the correction will inform you when your records have been changed.

As a result of the aforementioned correction, you are entitled by law to elect coverage under the Survivor Benefit Plan (SBP). Upon receipt of this letter, you must contact the Air Force Personnel Center via email at AFPC.SBP@US.AF.MIL to make arrangements to obtain an SBP briefing prior to rendering an election. If a valid election is not received within 90 days from the date of this letter, you will not be enrolled in the SBP program unless at the time of your separation, you were married, in such a case, failure to render an election will result in automatic enrollment by law.

Attachment:
Record of Proceedings

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