

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2022-00116
SEPARATION DATE: 20090408

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was a Reserve E5, Officer Candidate, medically separated for “arthritis, degenerative, residual right hip pain” and “lumbar strain,” rated 10% each, with a combined disability rating of 20%.

CI CONTENTION: No specific contention was made. 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 – 20090217			VAR – 20090731			
Condition	Code	Rating	Condition	Code	Rating	Exam
Residual Right Hip Pain	5010	10%	S/P Right Hip Femoral Neck Stress Fracture	5252	10%	20090508
Lumbar Strain	5237	10%	Musculoligamentous Strain of Lumbar Spine	5237	10%	20090508
COMBINED RATING: 20%			COMBINED RATING OF ALL VA CONDITIONS: 20%			

ANALYSIS SUMMARY:

Right Hip. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI’s right hip condition began in October 2006, when a right hip stress fracture became symptomatic. He underwent open reduction internal fixation surgery and one year later, the hardware was removed. During the 7 May 2008 MEB examination (recorded on DD Forms 2807-1 and 2808), 11 months prior to separation, the CI reported right hip pain, and walking with a cane. Physical examination noted right hip pain with motion. The 4 December 2008 MEB NARSUM examination, 4 months prior to separation, noted complaints of 6/10 right hip pain aggravated by walking and sitting. Physical examination showed tenderness and normal range of motion (ROM) with pain. At the 8 May 2009 VA Compensation and Pension (C&P) examination, 1 month after separation, the CI reported chronic right hip pain and ambulated with the aid of a cane without evidence of a limp. The examiner recorded flexion of 125 degrees (normal), abduction of at least 40 degrees (normal 45), extension of 25 degrees (normal 30) without significant pain. Repetitive movements of the right hip were only slightly symptomatic and there was no indication of instability.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the right hip condition 10%, coded 5010 (traumatic arthritis), citing slight loss of motion. The VA also rated the right hip condition 10%, coded 5252 (thigh, limitation of flexion), based on the C&P examination, citing limited motion of a major joint.

Panel members agreed there was no limitation of motion which supported a higher rating under the diagnostic codes for limitation of thigh flexion, extension, or thigh impairment (5251, 5252, and 5253). However, there was evidence of painful motion and functional loss to support the 10% rating IAW VASRD §4.59 assigned by the PEB. 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 right hip condition.

Lumbar Strain. According to the STR and NARSUM, the CI's back condition began during officer candidate school. An MRI suggested a possible stress fracture involving a lumbar vertebra, but an X-ray of the lumbar spine showed no acute bony abnormality, and overall alignment was good. The 4 December 2008 MEB NARSUM examination, noted pain in the right lower back in the paraspinal area of L3 and L5. Physical examination showed tenderness and no spasm. Forward flexion measured 70 degrees (normal 90), but combined ROM could not be determined. At the 8 May 2009 VA C&P examination, the CI reported constant 5/10 right low back pain. The examiner found tenderness, but no swelling, deformity or muscle spasm. The CI had slight pain with flexion to 80 degrees, and slight discomfort with extension. Combined ROM was 200 degrees (normal 240). The neurologic examination was normal, and X-rays appeared to be within normal limits.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the back condition 10%, coded 5237 (lumbosacral strain), citing forward flexion to 70 degrees. The VA also rated the back condition 10%, coded 5237, based on the C&P examination, citing forward flexion of the thoracolumbar spine greater than 60 degrees but not greater than 85 degrees.

Panel members agreed that a 10% rating, but no higher, was justified for limitation of flexion (greater than 60 degrees but not greater than 85 degrees) as reported on the NARSUM and VA examinations proximate to separation. 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. 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 back condition.

BOARD FINDINGS: In the matter of the right hip condition and IAW VASRD §4.71a, the panel recommends no change in the PEB adjudication. In the matter of the 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 20221109, 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
ARLINGTON, VA 22202-3531

AR20230007834, XXXXXXXXXXXX

XXXXXXXXXXXX

Dear XXXXXXXXXXXX

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.