

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX  
BRANCH OF SERVICE: ARMY

CASE: PD-2022-00118  
SEPARATION DATE: 20080527

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**SUMMARY OF CASE:** Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E4, Petroleum Supply Specialist, medically separated for “chronic neck pain secondary to lesion removal” with a disability rating of 10%.

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**CI CONTENTION:** The CI submitted a lengthy contention noting that the PEB’s rating was incorrect and requesting the panel review “hypersomnia,” and “PTSD” which was not identified by the Medical Evaluation Board (MEB) and Physical Evaluation Board (PEB). The complete submission is at Exhibit A.

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**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.

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**RATING COMPARISON:**

SERVICE PEB - 20080215			VARD - NA			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Neck Pain	5299-5237	10%	No VA Examination Proximate to Separation in Evidence			
Primary Hypersomnia	Not Unfitting					
<b>COMBINED RATING: 10%</b>			<b>COMBINED RATING OF ALL VA CONDITIONS: NA</b>			

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**ANALYSIS SUMMARY:**

**Chronic Neck Condition.** According to the service treatment record (STR) and the MEB narrative summary (NARSUM), the CI suffered a concussion following a parachute landing in April 2007. Radiographic studies revealed an ill-defined mass in the paravertebral soft tissues extending into the right C3-C4 neural foramen. A biopsy did not detect malignancy.

During the 13 August 2007 MEB examination (recorded on DD Forms 2807-1 and 2808), 9 months prior to separation, the CI reported chronic pain and loss of neck ROM. Physical examination showed decreased cervical ROM specifically with rotation and lateral bending. The 21 August 2007 physical therapy ROM study showed 25 degrees of flexion (normal 45) and 150 degrees of combined motion (normal 340). Pain was present with all measurements. Motor strength was normal, but spasms were noted bilaterally at the C5-C7 muscles.

At the evaluation by neurosurgery on 26 September 2007, the CI stated that he still had some stiffness and occasional tightness in the right side of his neck. Physical examination revealed a well-healed incision with no erythema, tenderness, or edema. There was some mild discomfort with palpation of the right cervical paraspinal muscle. The examiner noted "good cervical range of motion (ROM)."

The 25 October 2007 MEB NARSUM, 7 months prior to separation, noted complaints of constant neck pain, especially when required to move or turn his head. The CI reported that his neck pain woke him up one to four times every night. His neck pain kept him from conducting duties required of his MOS and of basic Soldier activities, but he was able to run, walk, bike, and swim at his own pace.

Panel members directed attention to their rating recommendation based on the above evidence. The PEB rated the neck condition 10%, coded analogously 5299-5237 (cervical spine strain), citing 35 degrees of forward flexion with bilateral spasm and tenderness. However, the panel agreed that a 20% rating, but no higher, was justified for limitation of flexion (greater than 15 degrees but not greater than 30 degrees) and combined ROM not greater than 170 degrees, as reported on the physical therapy ROM study. There were no other ROM studies for comparison. After due deliberation, considering all the evidence and mindful of VASRD §4.3 (reasonable doubt), the panel recommends a disability rating of 20% for the neck condition, coded analogously 5299-5237.

Contended PEB Condition: Primary Hypersomnia. The panel's main charge is to assess the fairness of the PEB determination that the contended condition was not unfitting. The contended condition was profiled (S3), but not implicated in the commander's statement. The CI's Platoon Sergeant, who had been his first line supervisor for over 3 years, stated there was a change in the CI's performance, and it was implied that his problems with waking up in the morning for work caused the change. The sergeant also stated that the CI's performance "puts himself and the platoon behind on daily duties." The contended condition did fail to meet retention standards and the MEB NARSUM psychiatric addendum noted this condition "significantly interfere[d] with his ability to perform military duties," noting a decrease in performance; he was functioning at 60-70% of his baseline performance and efficiency based on the platoon sergeant report. The examiner stated there was no evidence of a clinically significant sleep disorder prior to service. However, at the initial sleep consultation evaluation in September 2007, the CI reportedly stated that he had always slept a lot during the daytime and had difficulties in high school sleeping in class. At the initial sleep evaluation, the CI was diagnosed with excessive daytime hypersomnolence. The examiner stated, "The patient's sleep schedule is extremely abnormal due to his early military awakenings, and he was staying up later than usual." At the sleep study follow up evaluation in October 2007, the sleep medicine specialist assessed excessive daytime sleepiness, absence of narcolepsy, and noted that the CI was suspected of having chronic sleep deprivation, long hours of work, and insomnia. The CI stated that he "can do his job as long as he can stay awake." Reports of the CI falling asleep while working were not present in the STR. The CI stated that he was able to perform the normal duties of his MOS. Performance evaluation reports were not among the STR. The commander made no mention of a sleep problem interfering with duty performance. Although the profile included the contended condition, there were no sleep related restrictions and no comments related to functional limitations and capabilities related to the sleep condition. There were no restrictions to work schedule, or any indication that the CI needed to have rest periods for naps. Of note, the CI was allowed to carry and fire a weapon.

After due deliberation, the panel concluded there was insufficient cause to recommend a change in the PEB fitness determination for the contended condition, so no additional disability rating is recommended.

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**BOARD FINDINGS:** In the matter of the neck condition, the panel recommends a disability rating of 20%, coded analogously 5299-5237 IAW VASRD §4.71a. In the matter of the contended hypersomnia, the panel recommends no change from the PEB determination as not unfitting. 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:

<b>CONDITION</b>	<b>VASRD CODE</b>	<b>PERMANENT RATING</b>
Chronic Neck Pain	5299-5237	20%

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The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20221114, w/atchs
- Exhibit B. Service Treatment Record

AR20230007845, XXXXXXXXXXX

Mr. XXXXXXXXXXX

Dear XXXXXXXXXXX:

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.

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