

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2022-00051
SEPARATION DATE: 20080930

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E5, Cavalry Scout, medically separated for “fibromyalgia, manifested by widespread pain, myalgia, arthralgia, depression, fatigue and appropriate tender point” with a disability rating of 20%.

CI CONTENTION: After meeting two separate PEBs in 2004 and 2008, “the Board did not substantiate a reason for their rating on the DA Form 199 [in 2008]. They also did not include the 2004 PEB in determining a final rating. There were numerous procedural errors in the 2008 PEB that prevented a fair hearing.” 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 – 20080725			VARD – 20090317			
Condition	Code	Rating	Condition	Code	Rating	Exam
Fibromyalgia	5025	20%	Fibromyalgia	5025	20%	20090202
COMBINED RATING: 20%			COMBINED RATING OF ALL VA CONDITIONS: 60%			

ANALYSIS SUMMARY:

Fibromyalgia. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI’s fibromyalgia began in May 2004 after a gunshot wound from a bullet that entered his left upper arm and exited his back near the spine. He also suffered a punctured left lung and fractured 5-7th left ribs. The wounds healed with residuals of chest and back pain that spread to other areas of his body.

The 2 June 2008 MEB NARSUM examination, 4 months before separation, noted CI complaints of pain that had become more widespread over the preceding 4 years. The NARSUM writer reviewed multiple serological and radiographic studies performed over that time without another diagnosis explaining his symptoms. He was eventually diagnosed with fibromyalgia by a rheumatologist in February 2008. He complained of pain rated at 6-9/10 in the upper and lower back that spread to adjacent areas; he also had intermittent pain in multiple joints.

Other symptoms included mild depression and anxiety. The CI reported moderate relief with physical therapy (PT) and non-steroidal anti-inflammatory medications. Physical examination showed bilateral tender points in most of the cardinal locations. During the MEB examination (recorded on DD Forms 2807-1 and 2808) two days later, the CI reported joint pains and that he sometimes experienced pain when walking. Physical examination revealed generalized joint pain.

At a PT visit on 23 June 2008, 3 months prior to separation, the CI reported continued pain rated at 6-8/10, and that documentation of pain rated at 4/10 during a previous pool therapy session was in error. The examiner deferred evaluation because the CI had a normal physical examination "but with complaints of pain at multiple body regions." The CI was recommended for discharge since he was showing no improvement.

At the 2 February 2009 VA Compensation and Pension (C&P) examination, 4 months after separation, the CI complained of recurrent muscle pain but that the condition was not incapacitating. Physical examination did not address fibromyalgia criteria.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the fibromyalgia 20%, coded 5025 (fibromyalgia), citing "exacerbations that are episodic, often precipitated by stress or overexertion, but are present more than one third of the time." The VA also rated the fibromyalgia 20%, coded 5025, based on the C&P examination, citing the VASRD criteria for a 20% rating, and noting that exacerbations were present more than 30% of the time. Panel members determined that evidence in the STR and MEB and VA C&P examinations documented that the CI's fibromyalgia symptoms met rating criteria for a 20% rating for "widespread musculoskeletal pain and tender points, with or without associated fatigue, sleep disturbance, stiffness, paresthesias, headache, irritable bowel symptoms, depression, anxiety, or Raynaud's-like symptoms...that are episodic, with exacerbations often precipitated by environmental or emotional stress or by overexertion, but that are present more than one-third of the time." 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 fibromyalgia.

BOARD FINDINGS: In the matter of the fibromyalgia 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 20220523, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs

AR20230004252, XXXXXXXXXXX

Dear XXXXXXXXXXX:

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.