

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2022-00101
SEPARATION DATE: 20070208

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E4, Infantryman, medically separated for “chronic low back pain...” with a disability rating of 10%.

CI CONTENTION: The CI requested to review all conditions and requested review of additional conditions not identified by the Medical Evaluation Board (MEB) and 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 - 20080612			VARD - 20080429			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Low Back Pain	5237	10%	Degenerative Changes of L4-5	5242	10%	20070516
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: 30%			

ANALYSIS SUMMARY:

Back Pain. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI’s back condition began in October 2004 after road marching. Radiographic studies in April 2005 showed normal lumbar lordosis, but also showed disc space narrowing at L5-S1. Electrodiagnostic studies in November 2005 were essentially normal.

The 8 September 2006 MEB NARSUM examination, 5 months prior to separation, noted complaints of back pain when sitting at a desk for long periods of time. The pain radiated down the left leg and was associated with weakness. The examiner noted tenderness and decreased flexion, extension and lateral bending, but provided no range of motion (ROM) measurements. However, noted pain with motion. Thoracolumbar ROM measurements performed by physical examination clinic on 26 September 2006, showed active flexion of 70 degrees (normal 90) and combined ROM of 170 degrees (normal 240) after repetition.

At the 16 May 2007 VA Compensation and Pension (C&P) examination, 3 months after separation, the CI reported constant pain which increased with activity. There were no reported incapacitating episodes with written bed rest orders by a physician over the last 12

months. Physical examination showed a normal gait and straight spine, with no abnormal curvatures. The examiner recorded active flexion to 90 degrees and combined ROM of 205 degrees, after repetitive motion, with painful motion and tenderness.

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 combined passive ROM equal to 191 degrees and tenderness to palpation. The VA also rated the back condition 10%, coded 5242 (degenerative arthritis of the spine), based on the C&P examination, citing combined ROM of the thoracolumbar spine greater than 120 degrees but not greater than 235 degrees.

Although the PEB used passive ROM measurements as the basis for their rating, the panel relied on active ROM measurements and agreed a 10% rating, but no higher, was justified for limitation of flexion (greater than 60 degrees but not greater than 85 degrees) as reported by the physical examinations clinic, and combined ROM (greater than 120 degrees but not greater than 235 degrees), as reported by both the physical examinations clinic and VA examinations. 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. There was no documentation of intervertebral disc syndrome with incapacitating episodes which would provide for a higher rating under that formula. Additionally, while the CI may have experienced radiating pain to the left leg from the back condition, this was subsumed under the general spine rating criteria, which specifically states "with or without symptoms such as pain (whether or not it radiates).

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 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 20220708, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

AR20230008321, XXXXXXXXXXXX

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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.