

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2023-00063
SEPARATION DATE: 20040619

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E5, Multichannel Transmission Systems Operator/Maintainer, medically separated for “chronic back pain” with a disability rating of 10%.

CI CONTENTION: Review requested 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 - 20040402			VARD - 20040914			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Back Pain	5299-5237	10%	Chronic Mechanical Low Back Pain with Sacral Dysfunction and Myofascial Pain	5237	10%	STR
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: 10%			

ANALYSIS SUMMARY:

Chronic Back Pain. According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI first experienced back pain in 2002 with no specific injury reported. There was no surgical history or indication, and spine X-rays in December and April 2003 were normal. An MRI on 9 January 2004 revealed some mild scoliosis but was otherwise normal.

The 11 March 2004 MEB NARSUM examination, 3 months prior to separation, noted CI complaints of constant, non-radiating pain across the lower back, which was described as achy and sharp with “associated spasms,” and rated at 5-6/10. Activities such as prolonged standing, sitting, walking, or running, as well as sit-ups, lifting, bending and wearing military gear, worsened the pain; the CI denied any radicular symptoms or and bladder or bowel dysfunction. Physical examination revealed bilateral tenderness over the sacroiliac joint sulcus, lumbar paraspinals and sacrum. Straight leg raise and Faber tests were negative bilaterally and toe-to-heel walking was normal. “Trunk mobility” was goniometrically measured and revealed flexion to 70 degrees (normal 90), extension to 25 degrees (normal 30), right/left lateral bending to 30

degrees (normal), and right/left rotation to 25 degrees (normal 30), with a combined range of motion (ROM) of 205 degrees. Measurements in all planes were limited by pain. The examiner noted the CI had a normal gait as well as muscle strength and deep tendon reflexes throughout. There was no VA Compensation and Pension examination in evidence.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the back condition 10%, analogously coded 5299-5237 (lumbosacral strain), citing "chronic back pain, without abnormality, with thoracic lumbar range of motion limited by pain, with localized tenderness." The VA rated the back condition 10%, coded 5237, based on the STR, citing thoracolumbar flexion greater than 60 degrees but not greater than 85 degrees, appropriate for a 10% rating per the VASRD. The panel agreed that a 10% rating, but no higher, was justified for limitation of flexion as reported on the MEB NARSUM. 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. Additionally, there was no documentation of intervertebral disc syndrome with incapacitating episodes which would provide for a higher rating under that formula. 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 20230725, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

AR20230013719, XXXXXXXXXXX

XXXXXXXXXXXX

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.