

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2023-00067
SEPARATION DATE: 20051212

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E4, Topographic Analyst, medically separated from the Temporary Disability Retired List (TDRL) for “ankylosing spondylitis” with a disability rating of 20%.

CI CONTENTION: Extensive contention submitted requesting the panel review his unfitting condition and consider recommending a 40% rating. 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 (TDRL) - 20051027			VARD - 20050906			
Condition	Code	Rating	Condition	Code	Rating	Exam
Ankylosing Spondylitis	5240	20%	Ankylosing Spondylitis	5237	20%	20040428
COMBINED RATING: 20%			COMBINED RATING OF ALL VA CONDITIONS: 20%			

ANALYSIS SUMMARY:

Ankylosing Spondylitis. According to the service treatment record and MEB narrative summary (NARSUM), the CI’s low back condition began in 1999 after heavy lifting and there was no surgical indication. He was separated and placed on TDRL on 15 October 2003.

During the 17 October 2005 MEB physical therapy (PT) examination, 2 months before TDRL removal, range of motion (ROM) measurements revealed thoracolumbar flexion to 60 degrees (normal 90) and a combined ROM of 180 degrees (normal 240). There was no other periodic or final TDRL NARSUM examination in the record prior to TDRL removal.

At the 13 June 2006 VA Compensation and Pension (C&P) joints and spine examination, 6 months after TDRL removal, the CI reported constant, aching, and sharp thoracic and lumbosacral spine pain rated at 5/10. The pain did not radiate, and he endorsed back weakness, but no bowel, bladder, or erectile dysfunction. Physical examination showed normal gait and spinal tenderness at T4-S1. Thoracolumbar flexion was to 70 degrees and combined ROM was 210

degrees, with pain in all planes but no additional loss of motion with repetition. Sensory findings were normal, and he was able to heel-to-toe walk. Spine X-rays showed degenerative changes and that the sacroiliac joints were fused with degenerative joint disease at L3-4.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the back condition 20%, coded 5240 (ankylosing spondylitis), citing required daily medications for pain and spasm. The VA also rated the back condition 20%, but coded 5237 (lumbar spine strain), based on the C&P examination, citing forward flexion greater than 30 degrees but not greater than 60 degrees. The panel agreed that a 20% rating, but no higher, was justified for limitation of forward flexion as reported on the PT examination most proximate to TDRL removal. There was no evidence of unfavorable ankylosis of the thoracolumbar spine with forward flexion of 30 degrees or less for a 40% rating, and no documentation of intervertebral disc syndrome IVDS 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 that there was insufficient cause to recommend a change in the PEB adjudication for the back condition.

BOARD FINDINGS: In the matter of the ankylosing spondylitis 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 20230721, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

AR20240007972

Dear XXXXXXXXXX:

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.

Sincerely,