

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2023-00076
SEPARATION DATE: 20081001

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E4, Utility Equipment Repairer, medically separated for “low back pain” with a disability rating of 20%.

CI CONTENTION: Review all conditions as well as 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 - 20080519			VARD - 20090226			
Condition	Code	Rating	Condition	Code	Rating	Exam
Low Back Pain	5299-5237	20%	Chronic Lumbosacral Spine Strain with Degenerative Changes	5237	10%	20090204
Chronic Bilateral Patellofemoral Pain	Not Unfitting		Patellofemoral Syndrome with Chondromalacia, Left Knee	5299-5261	10%	20090204
			Patellofemoral Syndrome, Right Knee	5299-5261	10%	20090204
Hyperlipidemia	Not Unfitting		Hyperlipidemia	7199-7114	NSC	20090204
Season Allergies	Not Unfitting		Allergic Rhinitis	6522	0%	20090204
COMBINED RATING: 20%			COMBINED RATING OF ALL VA CONDITIONS: 40%			

ANALYSIS SUMMARY:

Low Back Pain (LBP). According to the service treatment record and MEB narrative summary (NARSUM), the CI’s low back condition began in 2004 after lifting heavy tactical equipment. He left active service in 2005 but re-enlisted in 2006, and shortly after began experiencing increased LBP. An MRI in October 2006 revealed multilevel facet joint degenerative changes with mild left-sided neural foraminal narrowing at L5-S1. Despite an orthopedic recommendation for surgery, the CI declined.

During the 7 April 2008 MEB examination (recorded on DD Forms 2807-1 and 2808), 6 months prior to separation, the CI complained of a history of chronic low back and neck pain since

September 2006. He reported low back numbness and tingling that worsened during prolonged standing. Physical examination revealed lumbar spine tenderness but was otherwise unremarkable. The next day at the MEB physical therapy range of motion (ROM) evaluation, thoracolumbar spine measurements showed flexion to 75 degrees (normal 90), with pain beginning at 35 degrees. Extension was to 15 degrees (normal 30) with full left lateral flexion (normal 30), right lateral flexion to 25 degrees, and full bilateral rotation (normal 30). Combined ROM was to 210 degrees, with pain recorded in all planes of motion. The examiner also noted an abnormal gait due to pain, and mild right thoracolumbar paravertebral muscle tone (muscle spasm or guarding).

The 11 April 2008 MEB NARSUM examination noted CI complaints of continued LBP rated on average at 2-3/10, and occasionally at 8-9/10. His back pain was exacerbated by lifting, bending and prolonged standing, and physical therapy and narcotic medication (fentanyl and oxycodone daily) provided only temporary relief. Chiropractic treatment for 12 visits resulted in minimal relief and although orthopedic evaluation recommended surgery, the CI declined. The examiner documented an antalgic gait and tenderness along the paraspinal muscles and over the L5-S1 and L4-5 facets bilaterally. The examiner referenced the physical therapy ROM measurements and additionally noted "lumbar ROM restricted in flexion and extension" with pain greater during flexion than extension. Motor and sensory tests as well as deep tendon reflexes were normal.

At the 4 February 2009 VA Compensation and Pension (C&P) examination, 3 months after separation, the CI reported continued LBP with flare-ups exacerbated by bending or lifting. Physical examination showed no acute distress. Thoracolumbar ROM measurements revealed forward flexion to 75 degrees, extension to 15 degrees extension, and bilateral lateral flexion and rotation to 30 degrees, with a combined ROM of 210 degrees. After repetitive motion, there was increased pain, fatiguability, lack of endurance and a 5-degree decrease in flexion and extension.

There was no paravertebral muscle spasm.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the low back condition 20%, analogously coded 5299-5237 (lumbar spine strain), citing abnormal gait, tenderness, and forward flexion to 75 degrees with pain beginning at 35 degrees.

The VA rated the low back condition 10%, coded 5237, based on the C&P examination, citing thoracolumbar forward flexion greater than 60 degrees but not greater than 85 degrees; or combined ROM greater than 120 degrees but not greater than 235 degrees. Panel members agreed that a 20% rating, but no higher, was justified for muscle spasm or guarding severe enough to result in an abnormal gait as recorded at both the PT and NARSUM examinations. There was no evidence of intervertebral disc syndrome which resulted in incapacitating episodes requiring physician-prescribed bed rest to warrant a higher rating under that alternate 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 low back condition.

Contended PEB Conditions: Chronic Patella Femoral Pain (Bilateral), Hyperlipidemia, and Season Allergies. The panel's main charge is to assess the fairness of the PEB determination that the contended conditions were not unfitting. None of the conditions were profiled or implicated in the commander's statement and did not fail retention standards. There was no performance-based evidence from the record that any of the conditions significantly interfered with satisfactory duty performance at separation. After due deliberation, the panel concluded there was insufficient cause to recommend a change in the PEB fitness determination for any of the contended conditions, so no additional disability ratings are recommended.

BOARD FINDINGS: In the matter of the low back condition and IAW VASRD §4.71a, the panel recommends no change in the PEB adjudication. In the matter of the contended bilateral patella femoral pain, hyperlipidemia, and season allergies, the panel recommends no change from the PEB determinations as not unfitting. 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 20230930, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

AR20240004200, XXXXXXXXX

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Dear XXXXXXXXX:

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.