

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2023-00087
SEPARATION DATE: 20060119

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 neck pain” with a disability rating of 10%.

CI CONTENTION: “I feel the rating given was small in comparison to the injury I have and will never get better with time. The separation process was done very quickly and I did not understand much of it while it was happening. The injury sustained was combat related and happened overseas in a time of war that resulted in coming home and being found unfit for duty.” [S/c] 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 - 20051013			VARD - NA			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Neck Pain	5237	10%	No VA Examination Proximate to Separation in Evidence			
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: 10%			

ANALYSIS SUMMARY:

Chronic Neck Pain. According to the service treatment record and MEB narrative summary (NARSUM), the CI’s neck condition began in early 2004 when he was involved in a Bradley fighting vehicle roll-over accident in Iraq. He reported that his neck was pinned in lateral flexion for an extended period until he was extricated from the vehicle. At the time, X-rays showed a normal cervical spine, but an MRI on 22 September 2004 showed multi-level degenerative disk disease at C4-5 and C5-6, with neural foraminal narrowing. At the C6-7 level there appeared to be a small central disk protrusion but without any central canal stenosis; surgery was not indicated. During the 24 June 2005 MEB examination (recorded on DD Forms 2807-1 and 2808), 7 months prior to separation, the CI reported upper back pain that occurred with his neck injury. Physical

findings showed tenderness along the cervical spine paraspinal muscles with no limitation of motion. Pain was elicited with cervical spine range of motion (ROM) tests. The MEB NARSUM examination, derived from the MEB examination, noted the CI's neck pain was "constant but tolerable" when taking his pain medications, with baseline pain at 7/10 and 10/10 at its worst. At times, the CI stated he was unable to get out of bed without assistance. His pain was exacerbated by prolonged immobility, awkward positions, wearing of his Kevlar helmet and military gear, carrying weight and lifting his son who weighted 20 lbs. There was no tenderness and cervical ROM was full with pain during extension and left lateral flexion. The examiner noted the CI was unable to perform basic military duties and that his condition, although stable, would not improve enough to remain on active duty. There was no VA rating documentation proximate to separation.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the neck condition 10%, coded 5237 (cervical spine strain), citing pain limited motion and cervical tenderness. Panel members agreed that a 10% rating was justified with application of VASRD §4.59 (painful motion). There was no evidence in the MEB examinations of a compensable limitation of motion, but painful motion was documented during ROM testing. 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. 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 chronic neck pain.

BOARD FINDINGS: In the matter of the chronic neck pain 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.

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20231118, w/atchs
- Exhibit B. Service Treatment Record

AR20240005828

Dear XXXXXXXXXX:

The Department of Defense Physical Disability Board of Review (DoD PDDBR) 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 PDDBR 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.