

RECORD OF PROCEEDINGS  
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXX  
BRANCH OF SERVICE: ARMY

CASE: PD-2024-00012  
SEPARATION DATE: 20051112

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**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 “thoracolumbar back pain secondary to compression fractures...” with a disability rating of 20%.

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**CI CONTENTION:** The CI’s counsel attached a 9-page brief in support of the application. The complete submission is at Exhibit A.

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**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.

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**RATING COMPARISON:**

SERVICE PEB – 20050627			VARD - 20051202			
Condition	Code	Rating	Condition	Code	Rating	Exam
Thoracolumbar Back Pain	5235	20%	T11-T12 Compression Fracture	5235	40%	20051003
<b>COMBINED RATING: 20%</b>			<b>COMBINED RATING OF ALL VA CONDITIONS: 50%</b>			

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**ANALYSIS SUMMARY:**

**Thoracolumbar Back Pain.** According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI’s back condition began in June 2004 after a parachute landing accident. Lumbosacral spine X-rays in November 2004 showed wedge deformity of T11 with narrowing of the T10-T11 disk space. An MRI in February 2005 showed wedge compression deformity of T11 and T12 vertebral bodies with a 25% loss of anterior vertebral body height of T11; and less than 25% loss of vertebral body height of T12. There were no disk bulges.

During the 14 March 2005 MEB examination (recorded on DD Forms 2807-1 and 2808), 8 months prior to separation, the CI reported recurrent back pain. Physical examination noted decreased range of motion (ROM) of the thoracic spine in flexion, with no tenderness. A week later at the MEB physical therapy examination, measured ROM revealed thoracolumbar flexion of 50 degrees (normal 90) and a combined ROM of 190 degrees (normal 240), after repetition.

The 23 March 2005 MEB NARSUM examination noted complaints of constant, aching lower thoracic spine pain, rated at 8/10, and worsened by walking more than 2 hours or standing for

more than 45 minutes. The examiner recorded a slight limp and mild thoracic spine tenderness.

At the 3 October 2005 VA Compensation and Pension (C&P) examination, 1 month before separation, the CI reported sharp, daily back pain. Upon examination, there was no tenderness, muscular spasms, or abnormal spinal curvature. The CI's gait was abnormal in that he took small steps. Measure ROM was "significantly limited" to forward flexion 20 degrees, and a combined ROM of 70 degrees after repetition, with no hip involvement.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the thoracolumbar back condition 20%, coded 5235 (vertebral fracture or dislocation), citing flexion "limited to 49 degrees by mechanical factors," and no spasm or radiculopathy. The VA rated the thoracolumbar back condition 40%, also coded 5235, based on the C&P examination, citing thoracolumbar forward flexion to 20 degrees. Panel members agreed that a 40% rating, was justified for limitation of flexion not greater than 30 degrees, as reported on the VA examination. The panel noted the absence of ROM testing between the MEB NARSUM and VA examinations, and considered the VA examination to be of greater probative value given its proximity to separation. There was no evidence to support a rating higher than 40%. After due deliberation, considering all the evidence and mindful of VASRD §4.3 (reasonable doubt), the panel recommends a disability rating of 40% for the thoracolumbar back condition, coded 5235.

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**BOARD FINDINGS:** In the matter of the thoracolumbar back condition, the panel recommends a disability rating of 40%, coded 5235 IAW VASRD §4.71a. There are no other conditions within the panel's scope of review for consideration.

The panel recommends the CI's prior determination be modified as follows; and, that the discharge with severance pay be re-characterized to reflect permanent disability retirement, effective the date of medical separation:

<b>CONDITION</b>	<b>VASRD CODE</b>	<b>PERMANENT RATING</b>
Thoracolumbar Back Pain	5235	40%

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The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20240321, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

AR20240010233,XXXXXXXXXX

Dear XXXXXXXXXXXX:

I accept the recommendation of the Department of Defense Physical Disability Board of Review (DoD PDBR) to re-characterize your separation as a permanent disability retirement with the combined disability rating of 40% effective the date of your medical separation for disability with severance pay. Enclosed is a copy of the Board's recommendation and record of proceedings for your information.

The re-characterization of your separation as a permanent disability retirement will result in an adjustment to your pay providing retirement pay from the date of your original medical separation minus the amount of severance pay you were previously paid at separation.

The accepted DoD PDBR recommendation has been forwarded to the Army Physical Disability Agency for required correction of records and then to the U.S. Defense Finance and Accounting Service to make the necessary adjustment to your pay and allowances. These agencies will provide you with official notification by mail as soon as the directed corrections have been made and will provide information on your retirement benefits. Due to the large number of cases in process, please be advised that it may be several months before you receive notification that the corrections are completed and pay adjusted. Inquiry concerning your correction of records should be addressed to the U.S. Army Physical Disability Agency, (AHRC-DO), 1835 Army Boulevard, Building 2000, JBSA, Fort Sam Houston, TX 78234.

A copy of this decision has also been provided to the Department of Veterans Affairs and to the counsel you listed on your application.