

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXX
BRANCH OF SERVICE: ARMY

CASE: PD-2024-00033
SEPARATION DATE: 20060216

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E6, M1 Armor Crewman, medically separated for “right tibial and peroneal neuropathy status post right lower extremity RPG [rocket-propelled grenade] blast” with a disability rating of 20%.

CI CONTENTION: “Permanent Nerve Damage to right leg, and right foot.” The CI also requested review 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 FPFB - 20060110			VARD - 20060427			
Condition	Code	Rating	Condition	Code	Rating	Exam
Right Tibial and Peroneal Neuropathy...	8724	20%	Perineal and Tibial Nerve Damage, Right Foot	8520	20%	20060217
COMBINED RATING: 20%			COMBINED RATING OF ALL VA CONDITIONS: 30%			

ANALYSIS SUMMARY:

Right Tibial and Peroneal Neuropathy. According to the service treatment record and MEB narrative summary (NARSUM), the CI’s condition began in August 2004 after sustaining wounds from an enemy RPG blast in Iraq. He was medically evacuated and underwent multiple reconstructive surgical procedures on the right lower extremity. On 19 July 2005, an EMG (nerve conduction study) demonstrated the right sural sensory nerve within normal limits; motor nerve study results for the right peroneal nerve were also normal. The right tibial motor nerve showed slowing in comparison to a previous study, and abnormalities seen in the right tibial and peroneal nerves were most consistent with findings of right tibial and peroneal neuropathies with signs of denervation and partial reinnervation.

During the 18 August 2005 MEB examination (recorded on DD Forms 2807-1 and 2808), 6 months prior to separation, the CI reported right foot pain and decreased sensation to the right toes, ankle, and medial leg. Physical examination of the right lower extremity revealed mild

tenderness to the lateral aspect of the calf wound/scar and right foot, as well as decreased dull/sharp sensation to the medial lower leg and foot.

The 24 October 2005 MEB NARSUM examination, 4 months before separation, noted CI complaints of persistent right leg pain and nerve dysesthesias (abnormal physical touch sensation). The examiner noted a hypertrophic scar on the posterior aspect of the right calf without Tinel sign (evidence of nerve irritation). There was no mention of muscle atrophy or tissue loss. The ankle had negative Tinel's signs over the tibial nerve at the medial malleolus and the common peroneal at the fibular head. The CI had decreased sensation to light touch on the dorsal and plantar aspect of the right foot, but normal sensation at the anteromedial, anterolateral and posterior leg and knee. Neurological findings demonstrated normal right extremity strength except for plantar flexion at 5-/5.

At the 17 February 2006 VA Compensation and Pension (C&P) examination, 1 day after separation, the CI reported daily pain, weakness, stiffness, fatigue, and lack of endurance associated with the right tibial and peroneal neuropathy. Physical findings revealed tenderness throughout the right foot plantar surface secondary to nerve damage, and strength throughout the right foot at 5/5. Right ankle active range of motion (ROM) was full, with pain noted throughout inversion from 0-30 degrees. There was no change in ROM during repetition or when resistance was applied to the joints. Motor examination of the right leg was not recorded.

The panel directed attention to its rating recommendation based on the above evidence. The formal PEB (FPEB) rated the right tibial and peroneal neuropathy 20%, coded 8724 (internal popliteal nerve (tibial) neuralgia), citing moderate incomplete paralysis involving two nerves of right lower extremity. The FPEB further noted the neuralgia was rated moderate due to severity and involvement of both right tibial and peroneal nerves. The VA rated the right tibial and peroneal neuropathy 20%, coded 8520 (paralysis of sciatic nerve), based on the C&P examination, citing moderate to the peroneal and tibial nerve damage causing foot pain. Panel members considered the electrodiagnostic studies in evidence showing nerve damage to the right tibial and peroneal nerves, which were in the process of damage repair. Motor nerves of the right peroneal nerve were normal, but slowing was noted in the right tibial nerve. Clinically, there was only a mild decrease in motor strength during plantar flexion at the MEB NARSUM examination, while the C&P examination recorded normal right foot motor strength. The CI's complaint was of pain and dysesthesia, and the NARSUM examiner documented decreased sensation to light touch on the dorsal and plantar aspect of the right foot, while the C&P examiner did not note any sensory findings. There was no report of loss of motor function, or significant weakness to the foot or leg, and thus, the panel agreed a 20% rating, but no higher was justified for the right tibial and peroneal neuropathy (both nerves provide innervation to parts of the foot in the right leg and therefore not rated separately to avoid pyramiding) under code 8724, for incomplete, moderate symptoms. 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 right tibial and peroneal neuropathy.

BOARD FINDINGS: In the matter of the right tibial and peroneal neuropathy and IAW VASRD §4.124a, 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 20240220, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

AR20240010259, XXXXXXXXXXX

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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.