

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXX
BRANCH OF SERVICE: AIR FORCE

CASE: PD-2024-00035
SEPARATION DATE: 20040719

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E5, Fuels Craftsman, medically separated for “chronic lower back pain” with a disability rating of 10%.

CI CONTENTION: Review requested of 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 - 20040527			VARD - 20061208			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Lower Back Pain	5237	10%	L5-S1 Fusion with Limited Range of Motion	5237	10%	20041110
Tobacco Abuse	Cat III		No VA Placement			
COMBINED RATING: 10%			COMBINED RATING OF ALL VA CONDITIONS: 20%			

ANALYSIS SUMMARY:

Chronic Low Back Pain (LBP). According to the service treatment record and MEB narrative summary (NARSUM), the CI underwent an L5-S1 fusion in 1991, at age 12, after the removal of a lower spine cyst. In 1999, she began experiencing LBP while frequently moving heavy aircraft fuel hoses on the flight line. Radiographic studies from September 2003 showed status post fusion at L5-S1 as well as some mild diffuse developmental lumbar narrowing from L2 through S1, but without significant disc bulge or evidence of herniation at any level.

The 19 April 2004 MEB NARSUM examination, 3 months prior to separation, noted CI complaints of chronic LBP increased by prolonged sitting as well as walking, running, and lifting greater than 10 pounds. Physical findings showed a normal gait but lumbosacral spine tenderness. Straight leg raises were negative, and range of motion (ROM) was recorded by the examiner as “truncal flexion to approximately 110 degrees,” and “extension approximately 10-15 degrees.”

At the 10 November 2004 VA Compensation and Pension (C&P) examination, 4 months after separation, the CI reported daily back pain. The examiner noted a normal gait, and no muscle

spasm, guarding, tenderness, or abnormal spinal contour. Thoracolumbar ROM measurements revealed flexion to 80 degrees (normal 90) and combined ROM of 170 degrees (normal 240), with endpoint pain in all planes. Repetition did not increase pain or decrease ROM, and there was no fatigue, weakness, or lack of endurance.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the LBP 10%, coded 5237 (lumbar spine strain), citing a 0% reduction for the condition existing prior to service with service aggravation. The VA also rated the LBP 10%, coded 5237, based on the C&P examination, citing VASRD spine rating criteria. Panel members noted the NARSUM examiner cited "truncal flexion" rather than goniometric thoracolumbar ROM specified by the VASRD (§4.71a, Plate V), and thus placed greater probative value on the VA examination's compliant measurements. The panel agreed a 10% rating, but no higher, was justified for limitation of flexion (greater than 60 degrees but not greater than 85 degrees) and combined ROM (greater than 120 degrees but not greater than 235 degrees). The panel noted a 10% rating was alternatively warranted for tenderness reported at the NARSUM examination and painful motion recorded at the VA examination. 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. There was no documentation of intervertebral disc syndrome 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 there was insufficient cause to recommend a change in the PEB adjudication for the LBP.

Contended PEB Condition: Tobacco Abuse. The panel's main charge is to assess the fairness of the PEB determination that the contended condition was not unfitting. The tobacco abuse was not profiled or implicated in the commander's statement and did not fail retention standards. There was no performance-based evidence from the record that the condition 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 the contended condition, so no additional disability rating is recommended.

BOARD FINDINGS: In the matter of the low back pain and IAW VASRD §4.71a, the panel recommends no change in the PEB adjudication. In the matter of the contended tobacco abuse, the panel recommends no change from the PEB determination 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 20240702, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record

SAF/MRB
3351 Celmers Lane
JBA NAF Washington, MD 20762-6435

Dear XXXXXXXX:

Reference your application submitted under the provisions of DoDI 6040.44 (Section 1554, 10 USC), PDDB Case Number PD-2024-00035.

After careful consideration of your application and treatment records, the Physical Disability Board of Review determined that the rating assigned at the time of final disposition of your disability evaluation system processing was appropriate. Accordingly, the Board recommended no rating modification or re-characterization of your separation.

I have carefully reviewed the evidence of record and the recommendation of the Board. I concur with that finding and their conclusion that modification of your disability rating or characterization of your separation is not warranted. Accordingly, I accept the recommendation that your application be denied.