

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME:
BRANCH OF SERVICE: NAVY

CASE: PD-2024-00038
SEPARATION DATE: 20040308

SUMMARY OF CASE: Data extracted from the available evidence of record reflects this covered individual (CI) was an active duty E6, Aegis Display Technician, medically separated for “chronic low back pain” and “essential tremor,” rated 10% each, with a combined disability rating of 20%.

CI CONTENTION: Review all conditions. 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 - 20031119			VARD - NA			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Low Back Pain	5295	10%	No VA Examination Proximate to Separation in Evidence			
Secondary Myofascial Pain	Cat II					
Essential Tremor	8199-8105	10%				
Depressive Disorder	Cat III					
COMBINED RATING: 20%			COMBINED RATING OF ALL VA CONDITIONS: NA			

ANALYSIS SUMMARY:

Chronic Low Back Pain (LBP). According to the service treatment record (STR) and MEB narrative summary (NARSUM), the CI’s LBP began in 1996 after heavy lifting. An MRI showed degenerative disc disease and moderate to severe central stenosis at L2-3 and L3-4; surgery was not indicated.

The 26 April 2003 MEB NARSUM examination, 10 months prior to separation, noted CI complaints of persistent LBP, and the examiner documented tenderness and painful motion, but no acute distress. Range of motion (ROM) was not measured in degrees but recorded as “flexion limited secondary to pain.” A straight raise test was negative and bilateral lower extremity strength was 5/5. Sensation was intact to pinprick and light touch, and deep tendon reflexes were 1-2+ and equal bilaterally. The CI’s gait was “steady and reciprocal.”

Controlled by: DAF
 Controlled by: SAF/MRBD
 CUI Categories: SP-MIL/SP-PRVCY
 Limited Dissemination Control: N/A
 POC: SAF.MRBD.Workflow@us.af.mil

Clinical examinations in the months prior to separation also showed tenderness and painful motion but provided no ROM measurements. There was no VA examination proximate to separation in evidence.

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the LBP 10%, coded 5295 (lumbosacral strain), and also listed secondary myofascial pain as a related Category II condition (contributes to the primary unfitting condition but not separately ratable). The impairment from the secondary myofascial pain was properly subsumed under the overall rating for the LBP in accordance with (IAW) §4.14 (avoidance of pyramiding; more than one rating based on the same impairment is prohibited). In accordance with DoDI 6040.44, the panel is required to recommend a rating using the Veteran Administration Schedule for Rating Disabilities (VASRD) in effect at the time of separation. Panel members noted the 2003 VASRD spine standards, which were in effect at the time of separation, were changed to the current §4.71a rating standards in 2004. Thus, the panel must correlate the above clinical data with the 2003 rating schedule and apply the following diagnostic codes if appropriate: 5292 (limitation of lumbar spine motion); 5293 (intervertebral disc syndrome; based on incapacitating episodes); and 5295 (lumbosacral strain). Panel members noted the MEB NARSUM and PEB assessed the CI's fitness prior to the change in the VASRD spine rules. Therefore, the PEB used the interim spine rules and code 5295 as noted above. Under the interim spine rules, a 10% rating is granted based on painful motion, and the panel agreed this rating was justified for the presence of painful motion and tenderness. There was no muscle spasm on extreme forward bending, loss of lateral spine motion, unilateral, in standing position, to warrant the next higher 20% rating. 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.

Essential Tremor. According to the STR and MEB NARSUM, the CI's essential tremor began in 1991 during basic training. During the 25 April 2003 MEB NARSUM addendum examination, the CI reported tremor in both hands, but worse on the right. He also stated the condition occasionally felt like a sensation throughout his whole body or a tremor in his voice. The CI had a prescription for Primidone (anti-convulsant) twice a day. Physical examination showed the cranial nerves intact with no specific voice or head tremor. Motor examination demonstrated normal strength and tone, and negative pronator drift. Sensation was intact to light touch and proprioception, and Romberg sign was absent. Coordination testing revealed "a coarse postural and kinetic hand tremor, without an appreciable rest component...intrusion of the tremor when he performed rapid alternating movements...no dysmetria or pass pointing on finger-to-nose or heel-to-shin testing."

The panel directed attention to its rating recommendation based on the above evidence. The PEB rated the essential tremor 10%, analogously coded 8199-8105 (Sydenham's chorea), for mild symptoms/impairment. The STR noted the CI's tremors began in boot camp in 1991 and worsened over time. Medication was beneficial and improved his tremor; however, he had difficulty with fine motor control and working on radar screens and other maintenance equipment. Panel members agreed the evidence supported a 10% rating for mild symptoms and impairment, but there was no evidence of frequent dropping of objects due to tremor or problems with holding eating utensils to warrant a higher 30% rating for moderate symptoms or impairment. 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 essential tremor.

Contended PEB Condition: Depressive Disorder. The panel's main charge is to assess the fairness of the PEB determination that the contended condition was not unfitting. Although the CI met a limited duty board in October 1998 for a mental health condition, he was deemed fit for duty and did not require any other periods of limited duty for a mental health diagnosis proximate to

separation. The contended condition did not fail retention standards, and there was no performance-based evidence from the record that the condition significantly interfered with satisfactory duty performance at separation. There was no non-medical assessment in evidence. 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 condition and IAW VASRD §4.71a, the panel recommends no change in the PEB adjudication. In the matter of the essential tremor and IAW VASRD § 4.124a, the panel recommends no change in the PEB adjudication. In the matter of the contended depressive disorder, 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.

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20240726, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans Affairs Record



DEPARTMENT OF THE NAVY
SECRETARY OF THE NAVY COUNCIL OF REVIEW BOARDS
720 KENNON STREET SE STE 309
WASHINGTON NAVY YARD, DC 20374-5023

IN REPLY REFER TO
6040
CORB: 001
16 Dec 24

From: Director, Secretary of the Navy Council of Review Boards
To:

Subj: Physical Disability Board of Review Determination

Ref: (a) DoDI 6040.44

1. The Physical Disability Board of Review (PBDR) reviewed your case in accordance with reference (a) and forwarded their recommendation for action.
2. On 13 December 2024, the Assistant Secretary of the Navy (Manpower and Reserve Affairs) accepted the PBDR's recommendation of no change to your characterization of separation or disability rating assigned.
3. The PBDR determination is final and not subject to appeal or review.



THE ASSISTANT SECRETARY OF THE NAVY
(MANPOWER AND RESERVE AFFAIRS)
1000 NAVY PENTAGON
WASHINGTON, D. C. 20350-1000

6040
Memo 00/01

MEMORANDUM FOR COMMANDER, NAVY PERSONNEL COMMAND

Subj: PHYSICAL DISABILITY BOARD OF REVIEW RECOMMENDATIONS

Ref: (a) DODI 6040.44
(b) PDBR ltr dtd 4 Oct 24 ICO

1. Pursuant to reference (a), the recommendation of the Physical Disability Board of Review set forth in reference (b) is approved.

a. No change.

2. Please take action and provide notification to the above individual.