RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: AIR FORCE

CASE NUMBER: PD0900019 COMPONENT: ACTIVE

BOARD DATE: 20090609 SEPARATION DATE: 20050916

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SUMMARY OF CASE: This covered individual (CI) was an Air Force Security Forces SrA medically separated in 2005 after three and one half years of service. He developed significant low back pain and degenerative disc disease with anterolisthesis and disc herniation. He had limited movement of his spine and pain in his back and legs that did not resolve with appropriate treatment. His condition had progressed to the point of preventing him from reasonably performing the duties of his office, grade, rank, and rating and the Air Force Physical Evaluation Board (PEB) found him unfit for continued service in August 2005. He was separated with a 10% disability rating for 5243 Intervertebral disc syndrome using the Veterans Affairs Schedule for Ratings Disabilities (VASRD) and applicable Air Force regulations. Using an evaluation done prior to separation from the Air Force, the Veterans Administration (VA) initially rated his disability as 5237 lumbosacral strain at 20%. His condition worsened after separation and a subsequent VA evaluation six months later resulted in a 40% rating. The CI contends that his rating from the Air Force should have been the same as his rating from the VA and his other conditions (Post-Traumatic Stress Disorder (PTSD), Gastroesophageal reflux disease (GERD) and hypertension (HTN)) should have also been rated by the Air Force.

BOARD FINDINGS: IAW DoDI 6040.44, provisions of DoD or Military Department regulations or guidelines relied upon by the PEB will not be considered by the Board to the extent they were inconsistent with the VASRD in effect at the time of the adjudication. After careful consideration of all available information, the Board concluded that the CI’s condition is appropriately rated at 20% under VASRD 5243 Intervertebral disc syndrome. This rating is based on the objective findings of degenerative disc disease with anterolisthesis and herniated discs on MRI and decreased range of motion (ROM) of his thoracolumbar spine. The Air Force ROM measurements done for the MEB examination were 50 degrees of active flexion and 60 degrees of passive flexion. The VA ROM examination done prior to separation from service was 40 degrees of flexion limited by pain. All of these measurements meet the criteria for a rating of 20% under the general rating formula for diseases and injuries of the spine in the VASRD.

He did not appear to have any mental health diagnosis or symptoms at the time of evaluation by the PEB. Therefore the PDBR cannot consider any mental health diagnosis as unfitting.

The PDBR also examined the other conditions rated by the VA and did not find any to be separately unfitting. There is no record of medications for GERD at the time of separation and hypertension is not an unfitting condition.

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RECOMMENDATION: The Board recommends that the CI’s prior determination be modified as follows, effective as of the date of his prior medical separation.

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| Unfitting Condition | VASRD Code | Rating |
| Intervertebral disc disease | 5243 | 20% |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090122, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veteran's Affairs Treatment Record.

 President

 Physical Disability Board of Review

SAF/MRB

1535 Command Drive, Suite E-302

Andrews AFB, MD 20762-7002

Dear

 Reference your application submitted under the provisions of DoDI 6040.44 (Section 1554, 10 USC), PDBR Case Number PD-2009-00019.

 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 not appropriate under the guidelines of the Veterans Administration Schedule for Rating Disabilities. Accordingly, the Board recommended modification of your assigned disability rating without recharacterization of your separation with severance pay.

 I have carefully reviewed the evidence of record and the recommendation of the Board. I concur with that finding, accept their recommendation and direct that your records be corrected as set forth in the attached copy of a Memorandum for the Chief of Staff, United States Air Force. The office responsible for making the correction will inform you when your records have been changed.

Director

Air Force Review Boards Agency

Attachments:

1. Directive

2. Record of Proceedings

cc:

SAF/MRBR

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