RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: army

CASE NUMBER: PD0900064 COMPONENT: regular

BOARD DATE: 20090721 SEPARATION DATE: 20070430

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SUMMARY OF CASE: This covered individual (CI) was a 1LT medically separated from the Army in 2007 after 4 years of service. The medical basis for the separation was Post Traumatic Stress Disorder (PTSD). The CI had clear combat related PTSD precipitating events in Baghdad in 2004 with additional stressors during OIF5. The CI was medically evacuated from theater following a homicidal threat to another soldier. Psychiatric hospitalization in Germany diagnosed PTSD. Despite medication and treatment, the CI was unable to carry or fire weapons or perform rushes under fire. He was referred to the PEB, found unfit and separated at 10% disability.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CI CONTENTION(S): Medical discharge for PTSD at 10% for PTSD. VA exam 19 Oct 07 provided rating of 50%. Would like review for medical retirement.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

RATING COMPARISON:

|  |
| --- |
| **Previous Determinations**  |
| **Service (**PEB**)** | **VA exams Sep 2007 (6-mo post discharge)** |
| **PEB Condition** | **Code** | **Rating** | **Date** | **Condition** | **Code** | **Rating** | **Date** |
| PTSD 2nd to Iraq and hospitalization  | 9411 | 10 | **20070330** | PTSD | 9411 | 5030 | 20070501**20071101** |
|  |  |  |  | Exercise induced Asthma | 6602 | 10 | *20070501* |
|  |  |  |  | Compression Fx L1, L2 | 5235 | 0 | *20070501* |
|  |  |  |  | Environ Dermatitis | 7806 | 0 | *20070501* |
|  |  |  |  | Compartment syndrome right leg | 8722 | 0 | *20070501*  |
| **TOTAL Combined: 10%** | **TOTAL Combined (*incl non-PEB Dxs*): 60%****20071101 changed to 40%**  |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ANALYSIS SUMMARY: PTSD. Independent evaluation and rating of the MEB timeframe medical records and symptoms using the VASRD criteria would justify, at most, a 30% rating, absent the 50% minimum initial requirements of §4.129. Therefore, no TDRL rating higher than 50% is indicated. The VA detailed psychiatric PTSD exam (20070910) was 6 months following service discharge. Exam noted abnormal affect and mood, slow thought processes, abnormal speech, impaired impulse control, some unprovoked irritability and periods of violence, with the CI being tense and anxious. Global Assessment of Functioning (GAF) of 60 was described as moderate symptoms. The psychiatrist noted that ‘psychiatric symptoms cause occupational and social impairment with occasional decrease in work efficiency and intermittent inability to perform occupational tasks (*although generally functional*).’ Independent evaluation of that exam justified a rating of 30%. The VA initially rated the CI at 50% due to §4.129 and then decreased their rating to 30% following rating of their 20070910 examination.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 PDBR to the extent they were inconsistent with the VASRD in effect at the time of the adjudication. CI did not specifically contend for adding any new condition as unfitting, and no other VA rated condition rose to the level of being unfit. CI’s symptoms at discharge were discussed and the Board agreed that no higher than 50% TDRL was justified. The symptoms at the 6-month post discharge evaluation were discussed and there was clear evidence to support the 30% rating by both the VA and as independently rated. The Board unanimously voted for a permanent PTSD rating of 30% following a 6 month TDRL period rated at 50%.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

RECOMMENDATION: The Board recommends that the CI’s prior determination be modified as follows; TDRL at 50% for 6 months following the CI’s prior medical separation (PTSD at minimum of 50% IAW §4.129 and DoD direction), and then a permanent combined 30% disability retirement as below.

|  |  |  |  |
| --- | --- | --- | --- |
| Unfitting Condition | VASRD Code | TDRL Rating | Permanent Rating |
| PTSD  | 9411 | 50% | 30% |
| COMBINED | 50% | 30% |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090206, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

SFMR-RB

**DEPARTMENT OF THE ARMY**

ARMY REVIEW BOARDS AGENCY

1901 SOUTH BELL STREET 2ND FLOOR

ARLINGTON, VA 22202-4508

28 September 2009

MEMORANDUM THRU Commander, US Army Physical Disability Agency

(TAPD-ZB *I* , WRAMC, Building 7, Washington, D.C. 20307-5001

FOR US Army Review Boards Agency Support Division, SI. Louis (SFMR-RBR-SL),

9700 Page Avenue, St. Louis, MO 63132-5200

SUBJECT: Department of Defense Phvsical Disability Board of Review Recommendation

for AR20090015068 (PD200900064)

1. Under the authority of Tille 10, United States Code, section 1554(a), I approve the

enclosed recommendation of the Department of Defense Physical Disability Board of

Review (DoD PDBR) pertaining to the individual named in the subject line above to

constructively place the individual on the Temporary Disability Retired List (TDRL) at

50% disability for six months effective the date of the individual's original separation with

severance pay and then following this six month period recharacterize the individual's

separation as a disability retirement with the combined disability rating of 30%.

2. I direct that all the Department of the Army records of the individual concerned be

corrected accordingly no later than 28 January 2010, providing a DO Form 214 showing that

the individual was separated by reason of temporary disability effective the date of the

original separation for disability with severance pay, and providing orders showing that the

individual was retired with permanent disability effective the day following the six month

TDRL period, and adjusting pay and allowances accordingly. Pay and allowance

adjustment will account for recoupment of severance pay, providing 50% retired pay for six

months effective the date of the individual's original separation with severance pay and then

payment of permanent retired pay at 30% effective the day following the constructive six

month TDRL period. The individual will be afforded the opportunity to elect Survivor Benefit

Plan (SBP) and medical TRICARE retiree options.

3. I request that a copy of the corrections and any related correspondence be provided to

the individual concerned, counsel (if any), any Members of Congress who have shown

interest, and to the Army Review Boards Agency.

BY ORDER OF THE SECRETARY OF THE ARMY:

Encl