RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: ARMY

CASE NUMBER: PD0900146 BOARD DATE: 20100311

SEPARATION DATE: 20040802

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SUMMARY OF CASE: This covered individual (CI) was a Guard NCO (construction equipment operator) medically separated from the Army in 2004 after 20 years of combined service (10 years active duty). The medical basis for the separation was diabetes mellitus (DM). He had been diagnosed with DM in 2003 during an Operation Iraqi Freedom (OIF) deployment, but it was mild and easily managed by diet. During that deployment he developed a significant cervical radiculopathy requiring medical evacuation. The cervical condition was managed non-surgically with good results. He was cleared for a deployment to Kuwait, but experienced a serious exacerbation of DM (possibly as a result of the medical treatment for his radiculopathy). He was diagnosed with diabetic ketoacidosis (DKA) and stabilized as an inpatient. He fared well with medical management of the DM, but still required oral agents and dietary measures. His average blood sugars were normal, and he desired to remain on active duty. The Medical Evaluation Board (MEB), however, forwarded the DM (Type 2) condition to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. The cervical radiculopathy was forwarded as a medically acceptable condition. Additional conditions supported in the Disability Evaluation System (DES) packet are discussed below, but were not forwarded for PEB adjudication on the DA Form 3947. The PEB adjudicated the CI unfit for the DM only, and he was separated at a 20% disability rating.

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CI CONTENTION: The CI’s application states no contentions. Request for review of his PEB adjudications is implied.

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RATING COMPARISON:

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| --- | --- |
| **Service PEB** | **VA (2 Mo. after Separation) – All Effective 20040803** |
| **Condition** | **Code** | **Rating** | **Date** | **Condition** | **Code** | **Rating** | **Exam** |
| Diabetes Mellitus, Type 2 | 7913 | 20% | 20040405 | Diabetes Mellitus | 7913 | 20% | 20041021 |
| Diabetic Nephropathy  | 7913-7541 | 30% | 20041021 |
| Cervical Radiculopathy | Not Unfitting | 20040405 | Cervical Strain | 5237 | 10% | 20041021 |
| No DA 3947 Entry. | Hypertension | 7101 | 10% | 20041021 |
| No Additional DA 3947 Entries. | Non-PEB X 1 / NSC X 2 | 20041021 |
| **TOTAL Combined: 20%** | **TOTAL Combined (*Includes Non-PEB Conditions*): 60%**   |

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ANALYSIS SUMMARY:

Diabetes. The clinical evidence at separation was consistent with a 20% rating IAW VASRD §4.120 as determined by the PEB. His VA rating examination was performed close to separation and resulted in the same rating. Requirement for oral agent and restricted diet supported the 20% rating, but none of the criteria for higher ratings can be supported by the evidence. There was neither the insulin requirement nor regulation of activities required for the next higher 40% rating. The physical profile permitted unlimited walking and the VA examiner stated ‘The diabetes does not cause any restriction of activities.’ Other than the initial DKA requiring hospital admission, there were no further admissions and a very stable outpatient course. There were no hypoglycemic episodes. Thus none of the 60% or 100% criteria were met. All evidence considered, there is not reasonable doubt in the CI’s favor supporting recharacterization of the PEB adjudication for the DM condition.

Cervical Radiculopathy. After his OIF evacuation, the CI was diagnosed by Magnetic Resonance Imaging (MRI) and Electromyogram (EMG) (nerve conduction study) with a bulging disc at C6/7 and right C6/7 radiculopathy. By the time of separation, however, he had improved to the point of intermittent radicular pain only. The narrative summary (NARSUM) stated, ‘...due to his excellent response to therapy and resolution of his cervical radiculopathy symptoms, he was preparing to be redeployed into Kuwait...’. The Board’s assessment of the PEB’s fitness adjudication for the condition, however, is not straightforward. The NARSUM stated, ‘...cervical pathology which although asymptomatic at this time is at risk to be exacerbated when he has to start wearing Kevlar, body armor and battlefield gear...his symptoms are currently not interfering with the performance of his duties’. The Commander’s statement includes the entry, ‘[CI’s name] is physically incapable of performing basic soldiering tasks and Military Occupational Specialty (MOS)-related duties due to his neck pain.’ The Commander’s assessment, however, was prefaced with the statement, ‘I haven’t observed [CI’s name] prior to deployment and subsequent attachment to Mobilization Holding Battalion.’ His statement did not elaborate any limitations other than dietary restrictions and deployment constraints resulting from the DM. The physical profile in effect at the time did not incriminate the cervical radiculopathy as unfitting. The profile was P3 U2 and the only restrictions were alternate event for running and no geographic assignment without definitive medical care. The CI himself and the command’s personnel officer, in fact, stated that he was not unfit even for the DM. The NARSUM makes it clear, on the other hand, that the MEB’s opinion regarding the overall retention issue was influenced by the real risk that the condition would render him unable to tolerate Kevlar and battle gear. The Board deliberated if this factor was critical enough to support a recommendation for adding and rating cervical radiculopathy as an additional unfitting condition. It concluded that since the condition was clearly not unfitting in its own right at the time, especially given that the CI had already been cleared for deployment with his neck condition, the risk of future deterioration could not be invoked as an issue rendering the CI unfit. All evidence considered, there is not reasonable doubt in the CI’s favor supporting recharacterization of the PEB fitness adjudication for the cervical radiculopathy condition.

Diabetic Nephropathy. The complications of unfitting DM should be considered for rating as additionally unfitting conditions if their separate impact on fitness is significant. The NARSUM addressed the renal involvement of DM, which was not severe. There was proteinuria, but all other laboratory measures of kidney function were normal. It was suspected that the renal issue was more likely a result of prior medications than of DM. Whatever the cause, the condition was associated with minimal renal impairment and no definable impact on fitness. The clinical picture was unchanged at the time of the VA evaluation and the conclusions drawn in the VA rating decision are difficult to support from a medical standpoint. The Board has no basis for a recommendation that diabetic nephropathy made a ratable contribution to the unfitting DM.

Other Conditions. The NARSUM documented hypertension which was stable on medication. There were no complications or unfitting features at the time of separation. A significant anemia was documented. It had been discovered at the time of hospital admission and was under evaluation at the time of separation. No transfusions had been required and no associated symptoms were documented. The condition was not noted by the VA examiner and no follow-up hematocrit is in evidence. No link to fitness is apparent. The NARSUM discussed some transient visual impairment from the DM. An ophthalmologist opined that this was a result of osmotic shifts from the DKA affecting the lens and not diabetic retinopathy. Vision had returned to 20/20 at the time of separation. A resolved right shoulder nerve impingement was noted in the NARSUM, but was not clinically active at the time of separation. The CI or examiner did not note any additional conditions in the MEB physical. The VA rating examination identified a left shoulder condition, a finger condition and chest pain. None of these were acute and none received compensable ratings. They were not present in the Disability Evaluation System (DES) packet and not subject to Board consideration as additionally unfitting. Any contended conditions not covered above remain eligible for the Army Board of Correction for Military Records (ABCMR) consideration.

The Board, therefore, has no reasonable basis for recommending any additional unfitting conditions for separation rating.

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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 Veterans Administration Schedule for Rating Disabilities (VASRD) in effect at the time of the adjudication. The Board did not surmise from the record or PEB ruling in this case that any prerogatives outside the VASRD were exercised. In the matter of the diabetes mellitus condition and IAW VASRD §4.120, the Board unanimously recommends no change in the PEB coding and rating adjudication. In the matter of the cervical radiculopathy condition, the Board unanimously recommends no recharacterization of the PEB adjudication as not unfitting. In the matter of the hypertension, anemia, visual complications from diabetes, right shoulder nerve impingement or any other medical conditions eligible for Board consideration; the Board unanimously agrees that it cannot recommend any findings of unfit for additional rating at separation.

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RECOMMENDATION: The Board therefore recommends that there be no recharacterization of the CI’s disability and separation determination.

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090212, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

