RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: ARMY

CASE NUMBER: PD0900151 BOARD DATE: 20100325

SEPARATION DATE: 20041022

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SUMMARY OF CASE: This covered individual (CI) was an active duty SPC (admin) medically separated from the Army in 2004 after 3 years of service. The medical basis for the separation was post-traumatic stress disorder (PTSD). This diagnosis proceeded from an Operation Iraqi Freedom (OIF) deployment in 2003 with documented exposure to Criterion A stressors. He successfully completed the tour, but began to develop characteristic PTSD symptoms after redeployment. He was initially reluctant to report the symptoms, but became noticeably distressed on the firing range and was referred to Behavioral Health. He received an Axis I diagnosis of PTSD which was managed with medications as an outpatient. He continued to satisfactorily perform within his Military Occupational Specialty (MOS), but the firing of weapons and donning of combat gear triggered severe symptoms. Since he could no longer fulfill the requirements of soldiering, he was placed on a permanent P3 profile and underwent a Medical Evaluation Board (MEB). PTSD was referred to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. Additional conditions of hypertension (HTN) and nephrolithiasis (history of kidney stones) were addressed in the narrative summary (NARSUM) and forwarded to the PEB as within AR 40-501 standards. 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 found the CI unfit for PTSD only and he was medically separated with a disability rating of 10%.

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CI CONTENTION: The CI states: ‘VA schedule for rating disabilities...was not used in my disability rating from the Army.’ He notes his other VA-rated conditions on the application, but does not specifically contend for service ratings for them.

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RATING COMPARISON:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Service PEB – Dated 20040705** | | | **VA (Pre-Separation) – All Effective 20041023** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| PTSD | 9411 | 10% | PTSD | 9411 | 30% | 20040802 |
| 30% | 20070110 |
| Borderline HTN | Not Unfitting | | Hypertension | 7101 | 10% | 20040809 |
| Nephrolithiasis | Not Unfitting | | Renal Stones | 7508-7509 | 0% | 20040809 |
| ↓No Additional DA Form 3947 Entries.↓ | | | Strain, Lumbar Spine | 5237 | 20% | 20040809 |
| Strain, Left Knee | 5260 | 10% | 20040809 |
| Strain, Left Ankle | 5271 | 10% | 20040809 |
| Non-PEB X 2 | | | 20040809 |
| **TOTAL Combined: 10%** | | | **TOTAL Combined: 60%** | | | |

ANALYSIS SUMMARY:

PTSD. The PEB rating was based on DoDI 1332.39 (E2.A1.5) guidance and preceded the promulgation of Veterans Administration Schedule for Rating Disabilities (VASRD) §4.129. IAW DoDI 6040.44 and DOD guidance (which applies current VASRD §4.129 to all Board cases), the Board is obligated to recommend a minimum 50% rating for a retroactive six month period of Temporary Disability Retired List (TDRL). The Board must then determine the most appropriate fit with VASRD §4.130 criteria at six months for its permanent rating recommendation. In this case, there was no follow-up psychiatric evaluation or other useful rating information for over two years after separation. The Board therefore has decided that the permanent rating recommendation is most appropriately based on the information at separation. That was not very problematic in this case because the VA rating examination after two years was not significantly changed from the MEB and pre-separation VA psychiatric evaluations. A VA rating of 30% ensued from both exams.

The DoDI-based rating of 10% by the PEB was reasonable. The Commander’s letter and psychiatric evaluations made it clear that the CI was performing well on the job (albeit with some stress and extra effort). As noted above, he was unfit primarily because he could not tolerate the military-specific PTSD triggers. He was prescribed three psychotherapeutic medications and was sleeping poorly. His daily symptoms were those typical of PTSD (hypervigilance, exaggerated startle response, detachment, avoidance, etc.), but they were not incapacitating. He was noted with some decrease in concentration. He was able to maintain family and social relationships. His GAF (global assessment of functioning) score was 61, indicative of mild impairment. His mental status examination was normal per the MEB psychiatrist and significant only for depressed mood and ‘somewhat constricted’ affect per the VA psychiatrist. There was no suicidal ideation and no psychiatric admissions. This clinical picture is not consistent with the VASRD §4.130 criteria for a 10% rating, i.e., ‘mild or transient symptoms which decrease work efficiency...only during periods of significant stress’. Symptoms were constant independently of external stressors. The CI’s symptoms were consistent with the 30% rating description, i.e., ‘occasional decrease in work efficiency’. He also displayed most of the ‘due to’ symptoms exampled in the 30% rating language. The 50% threshold of ‘reduced reliability and productivity’ was not met and nearly none of the ‘due to’ symptoms exampled for that rating were in evidence. The Board therefore recommends 30% as the fair permanent rating for PTSD in this case, following the mandated six month TDRL rating of 50%. This is consistent with the VA rating decision and buttressed by evidence of a stable clinical course for over two years after separation.

Other Conditions. HTN and nephrolithiasis were specifically adjudicated as not unfitting by the PEB. HTN was borderline, asymptomatic and stable on medication (clonidine). There was no active kidney stone disease at the time of separation. Thus there is no basis for a Board recommendation contrary to the PEB adjudications. Some relatively minor orthopedic conditions were noted in the NARSUM and documented on the MEB physical. These consisted of low back pain with occasional ‘tingling’ of the left leg and past injuries to the left knee and left ankle. All of these conditions were a consequence of a motor vehicle accident during the OIF deployment. None of them were profiled or under active treatment at the time of separation. No orthopedic limitations were mentioned in the Commander’s statement. There is therefore no foundation for a Board recommendation that any of these conditions were additionally unfitting, although all three received compensable ratings from the VA. The only other condition eligible for DES consideration was an intermittent rash dating back to the OIF deployment. This was treated by over-the-counter antifungal medication and was not associated with systemic symptoms. There are no fitness implications.

There are therefore no additional conditions in this case appropriate for Board recommendation as additionally unfitting 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 VASRD in effect at the time of the adjudication. As discussed above, PEB reliance on DoDI 1332.39 for rating PTSD was operant in this case and the condition was adjudicated independently of that instruction by the Board. In the matter of the PTSD condition, the Board unanimously recommends an initial TDRL rating of 50% in retroactive compliance with VASRD §4.129 as DOD directed; and a 30% permanent rating at 6 months IAW VASRD §4.130. In the matter of the hypertension and nephrolithiasis conditions, the Board unanimously recommends no recharacterization of the PEB adjudication as not unfitting. In the matter of the back condition, left ankle condition, left knee condition, skin condition 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 recommends that the CI’s prior determination be modified as follows; TDRL at 50% for 6 months following CI’s prior medical separation (PTSD at minimum of 50% IAW §4.129 and DoD direction) and then a permanent 30% disability retirement as below.

|  |  |  |  |
| --- | --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **TDRL RATING** | **PERMANENT**  **RATING** |
| Post-Traumatic Stress Disorder | 9411 | 50% | 30% |
| **COMBINED** | **50%** | **30%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090204, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

