RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: ARMY

CASE NUMBER: PD0900259 BOARD DATE: 20090820

SEPARATION DATE: 20051116

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SUMMARY OF CASE: This covered individual (CI) was a junior officer medically separated from the Army in 2005, after 18 months of service, for a cervical condition. The CI injured her neck initially in a fall during ROTC training in 2002 (EPTS). Although she had difficulty with her subsequent ROTC training because of neck pain, her entrance physical did not address the neck pain and she was commissioned. She fell at home in 2004 after she was on active duty, suffering a concussion. A subsequent MRI of the brain was normal, but a cervical MRI demonstrated stenosis and suspected disc disease at the C5-6 level. Her cervical condition did not respond to conservative management, and surgery was recommended. She declined for family reasons and underwent a MEB. Electromyelography during the course of her cervical work-up demonstrated mild bilateral carpal tunnel syndrome (CTS) deficits which were treated conservatively. She was issued wrist splints, but there is no evidence they were in use at the time of her MEB physical. CTS was noted in the NARSUM, but not forwarded on the MEB DA 3947. It was, therefore, not formally adjudicated by the PEB. An EPTS component for her cervical condition was acknowledged by the PEB, but it was deemed to be service-aggravated. No deduction is evidenced. The CI was found unfit for the cervical condition only and separated at 10% disability.

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CI CONTENTION: The CI contends: ‘Within a year of my separation, the VA changed my rating from 20% to 30% when my neck injury continued to worsen and required immediate surgery.’

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RATING COMPARISON:

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| --- | --- |
| **Service PEB** | **VA (Pre-Separation)** |
| **PEB Condition** | **Code** | **Rating** | **Date** | **Condition** | **Code** | **Rating** | **Exam** | **Effective** |
| CHRONIC NECK PAIN DUE TO C5-6 DEGENERATIVE DISC DISEASE AND SPINAL STENOSIS  | 5238 | 10% | 20050902 | CERVICAL STENOSIS, C5-6 | 5242 | 0%10% | 2005081620060628 | 2005111720060420 |
| NO DA 3947 ENTRY | - | - | **-** | CTS, LEFT  | 8615 | 10% | 20050816 | 20051117 |
| NO DA 3947 ENTRY | - | - | **-** | CTS, LEFT  | 8615 | 10% | 20050816 | 20051117 |
| NO DA 3947 ENTRY | - | - | **-** | HYPERTENSION | 7101 | 0% | 20050816 | 20051117 |
| **TOTAL Combined: 10 %** | **TOTAL Combined (*incl non-PEB Dxs*): 20%**   |

ANALYSIS SUMMARY:

Cervical Rating. There was a single goniometric range-of-motion (ROM) exam in the service treatment record, which is quoted in the NARSUM. It demonstrated active flexion of 25⁰ (Total 135⁰) with pain noted at 18⁰. The VA rating examination was performed 2 months later (still prior to separation), and demonstrated normal ROM in all planes. The VA examiner further noted no painful motion or spasm. The PEB applied the USAPDA pain policy regarding ROM measurements for rating, but rated 10% based on spasm. Based on their normal rating examination, the initial VA rating was 0%. This was raised to 10% based on a worse exam 10 months later. The cervical flexion documented on the Army goniometric exam rates 20% IAW §4.71a of the VASRD.

CTS. Consideration is given to adding the CTS ratings as additionally unfitting conditions at separation. It cannot be medically ascertained if the bilateral condition represents radiculopathic complications of the cervical pathology or if it is a separate peripheral entrapment neuropathy (the usual etiology of CTS). The issue before this Board, however, is whether it is a significant detriment to fitness. The CI’s U3 profiles were worded as applicable to the neck only, although some of the activity restrictions could apply to bilateral CTS. The Commander’s statement was explicit regarding neck pain itself as the limiting factor in her performance. Both the NARSUM and the MEB physical exam documented normal reflexes and motor strength of both upper extremities, without tenderness or mention of the use of splints. The VA rating examiner made note of subjective complaints of intermittent bilateral hand weakness, numbness and pain; but the physical documented normal motor/sensory and ROM exams of both upper extremities. There would appear, therefore, to be no functional tie-in of CTS to fitness.

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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 PDBR to the extent they were inconsistent with the VASRD in effect at the time of the adjudication. The PEB adjudication in this case reflected application of the USAPDA pain policy to the cervical rating, which was eliminated as a factor in the Board’s rating. In the matter of the cervical condition, although there was a significant disparity between the Army and VA examinations, it was concluded that, IAW VASRD §4.3 (reasonable doubt), the rating should be based on the MEB findings. The Board, therefore, unanimously recommends an increase in the cervical rating to 20% IAW VASRD §4.71a. In the matter of the bilateral CTS condition, the Board unanimously concluded that there is no reasonable basis for a recommendation of additionally unfitting.

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

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| --- | --- | --- |
| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| **CHRONIC NECK PAIN DUE TO C5-6 DEGENERATIVE DISC DISEASE AND SPINAL STENOSIS**  | **5238** | **20%** |
| **COMBINED** | **20%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090330, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

