RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: Air Force

CASE NUMBER: PD0900361 BOARD DATE: 20090916

SEPARATION DATE: 20081112

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SUMMARY OF CASE: This covered individual (CI) was an Air Force Senior Airman Cryptologic Linguist medically separated from the Air Force in 2008 after two years and eight months of service. The medical basis for the separation was low back pain and right hand pain. She was referred to the Physical Evaluation Board (PEB), found unfit, and separated at combined 20% disability.

MEDICAL HISTORY:

The CI is right hand dominant and she fractured her right fourth and fifth metacarpals playing unit softball in June 2006. She had a closed reduction and percutaneous pinning on 20060609 and the pins were later removed. She continued to have pain and inability to perform push-ups or any other type of pushing or pulling activity and was on a profile continuously. She was followed by a hand surgeon who felt her continued painful right little finger was related to a probable loose body at the fifth carpalmetacarpal joint that occurred as the result of her fracture. He offered arthroscopic assessment but the CI refused. She was actively engaged in physical and occupational therapy until she suffered a motor vehicle accident in September 2007 and injured her back. When her pain did not resolve she received multiple treatment modalities from physical therapy but none of these led to clinical improvement. She tried electrical stimulation, core stretching and strengthening exercises, and traction without relief. Ultrasound and massage helped somewhat but did not provide lasting relief. She also received trigger point injections with only minimal relief. She had two right wrist MRIs in April and May 2008 which were normal except for a stable 4mm dorsal ganglion cyst and evidence of the healed fractures. EMG/Nerve Conduction study of the right upper extremity was also normal. She had an MRI of the lumbar spine in May 2008 which was normal. She continued to have pain in her right hand and back and was unable to perform extended typing or writing, pushups, running, extensive walking, or activities that require prolonged sitting or standing.

She remained unable to perform the basic duties of her office-type job as a Cryptologic Linguist and was also considered not deployable and therefore was referred to the Air Force Physical Evaluation Board (PEB). The Informal PEB determined she was unfit for continued military service and she was then separated with a combined 20% disability for 5299-5237 Chronic Low Back Pain and 5299-5215 Chronic Right Hand Pain, status post Fracture of Fourth and Fifth Metacarpal Bones each at 10% using the

Veterans Affairs Schedule for Ratings Disabilities (VASRD) and applicable Air Force and Department of Defense regulations.

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CI CONTENTION: Low Back Pain. Right Wrist pain - should have included Right Shoulder Strain.

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RATING COMPARISON:

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| --- |
| **Previous Determinations**  |
| **Service** | **VA** |
| **PEB Condition** | **Code** | **Rating** | **Date** | **Condition** | **Code** | **Rating** | **Exam Date** | **Effective date** |
| Chronic Low Back Pain | 5299-5237 | 10% | 20081001 | Lumbar Spine, Degenerative Disc Disease | 5242 | 10% | 20090212 | 20081113 |
| Chronic Right Hand Pain, Status-Post Fracture Of Fourth And Fifth Metacarpal Bones | 5299-5215 | 10% | 20081001 | Right Hand, Fifth Metatarsal Fracture With ResidualPain | 5230 | 0% | 20090212 | 20081113 |
|  |  |  |  | Right Hand, 4th Metatarsal Fracture With Residual Pain | 5230 | 0% | 20090212 | 20081113 |
|  |  |  |  | Right Shoulder Strain | 5299-5019 | 10% | 20090212 | 20081113 |
|  |  |  |  | 5 other conditions  |  | NSC |  |  |
| **TOTAL Combined: 20%** | **TOTAL Combined (*incl non-PEB Dxs):* 20% from 20081113** |

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ANALYSIS SUMMARY:

Chronic Low Back Pain

The Air Force PEB rated this condition at 10% presumably for thoracolumbar flexion of 80 degrees, localized tenderness, and painful motion. However, the Medical Evaluation Board (MEB) Narrative Summary (NARSUM) documented a ‘flat back posture’ in the physical examination portion. This description of an abnormal spinal contour warrants a 20% rating under the VASRD general rating formula for diseases and injuries of the spine. However, a 10% rating was applied by the PEB without any justification for discrediting this objective finding.

Using an evaluation completed three months after the time of separation from the Air Force, the Veterans Administration (VA) rated this disability as 5242 Degenerative Disc disease of the Lumbar Spine at 10%. The VA examination documented normal range of motion (ROM) of the thoracolumbar spine, but noted painful motion. The VA examination also specifically documents no abnormal spinal contour.

Chronic Right Hand Pain, Status-Post Fracture Of Fourth And Fifth Metacarpal Bones

The Air Force PEB rated the CI’s right hand pain analogous to 5215 Limitation of Motion of the Wrist and assigned a 10% rating for painful motion in accordance with VASRD paragraph 4.59. Using an evaluation completed three months after the time of separation from the Air Force, the Veterans Administration (VA) rated this disability as 5230 Right Hand, Fifth Metacarpal Fracture with Residual Pain and 5230 Right Hand, Fourth Metacarpal Fracture with Residual Pain each at 0%.

VASRD 5230 is the code for Limitation of Motion of the Ring or Little Finger. The CI did not have limited or painful motion of the ring or little fingers of her right hand and the 0% ratings are appropriate. However, the CI did have painful motion of the right wrist as a result of her metacarpal fractures and a 10% rating under 5299-5215 is warranted.

Right Shoulder Strain

This condition was not mentioned in any PEB paperwork and therefore the Board cannot consider right shoulder strain.

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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. After careful consideration of all available information, the Board concluded by simple majority that the CI’s condition is appropriately rated at a combined 30% rating for 5237 Chronic Low Back Pain at 20% using the VASRD general rating formula for diseases and injuries of the spine and 5299-5215 Chronic Right Hand Pain, status post Fracture of the Fourth and Fifth Metacarpal Bones at 10%.

The 20% rating for Chronic Low Back Pain is based on the presence of a documented abnormal spinal contour on the NARSUM examination in addition to limited ROM and painful motion. While this objective finding was not present on the VA examination, muscle spasm that causes abnormal spinal contour is not necessarily a constant finding. It may come and go as the back condition waxes and wanes. Also, the VA examination was three months after the CI separated and her condition could have improved during this short interval. The Board must rate an unfitting condition as it presents at the time of separation.

The 10% rating for Chronic Right Hand Pain is based on painful motion of the wrist in accordance with VASRD paragraph 4.59.

Right Shoulder Strain was not mentioned in any PEB paperwork and could not be considered by the Board.

The single voter for dissent (who recommended no recharacterization) submitted a minority opinion.

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RECOMMENDATION: The Board recommends that the CI’s prior determination be modified as follows and that the discharge with severance pay be recharacterized to reflect permanent disability retirement, effective as of the date of the CI’s prior medical separation.

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| Unfitting Condition | VASRD Code | Rating |
| Chronic low back pain  | 5237 | 20% |
| chronic right hand pain, status post fracture of 4th and 5th metacarpal bones  | 5299-5215 | 10% |
| Combined | 30% |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20090518, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

 President

 Physical Disability Board of Review

MINORITY OPINION:

In my opinion the USAF Informal PEB’s coding and rating of the CI’s conditions were fair and accurate. I do not agree that 20% is an accurate rating of the CI’s back condition. The CI did not contend for an increase in the back rating, and the VA rating is in agreement with the Service rating of 10%.

On 20080624 a therapy session was accomplished by a Physical Therapist (PT) at a Physical Therapy Clinic for the MEB. During the session the PT noted the CI’s posture as ‘flat back.’ This note was the only entry found addressing posture as a ‘flat back.’ It was not identified in the Department of Veterans Affairs Compensation and Pension physical exam (C&P) done on 20090217, nor was any mention of flat back posture mentioned in any other entries in the Service Treatment Record.

VASRD §4.71a specifies a 20% rating if ‘abnormal contour’ is present, and the other PDBR Board members felt that the one instance of ‘flat back’ mentioned by the PT could be construed as an abnormal contour and therefore rated at 20%. Whether or not there was a valid physical finding associated with that description, in my mind it was obviously an outlier and not justification for recommending 10% additional disability rating.

Furthermore, the PT’s intended meaning of the term is speculative. ‘Flat back’ is not in common medical usage and no Medical Officer could state with reasonable certainty whether it referred to an abnormal finding, an anatomic variant or was a comment on posture. It is also accepted that spasm severe enough to affect spinal contour is not generally associated with fluid range-of-motion measurements, as were documented on the same exam. All of this additional uncertainty further undermines the prudence of recommending additional rating for an isolated entry in the medical record.

In my opinion the CI’s ‘flat back’ does not represent a ratable feature and 20% is not an accurate representation of the CI’s back condition at the time of separation.

I agree with the rest of the Board that a rating of 10% for the hand was a fair rating at the time of separation. That rating, in addition to the 10% back rating, yields a combined separation rating of 20%, which I believe is a fair adjudication of this case.

SAF/MRB

1535 Command Drive, Suite E-302

Andrews AFB, MD 20762-7002

 Reference your application submitted under the provisions of DoDI 6040.44 (Section 1554, 10 USC), PDBR Case Number PD-2009-00361.

 After careful consideration of your application and treatment records, by a majority vote, 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 majority recommended your separation be re-characterized to reflect disability retirement, rather than separation with severance pay. The Board minority recommended no re-characterization or modification of your separation.

 I have carefully reviewed the evidence of record and the recommendation of the Board. I concur with the finding of the Board minority that re-characterization of your separation is not warranted. Accordingly, I accept their recommendation of the Board minority that application be denied.

 Sincerely

Director

Air Force Review Boards Agency

Attachment:

Record of Proceedings

cc:

SAF/MRBR