RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: BRANCH OF SERVICE: MARINE CORPS

CASE NUMBER: PD0900492 BOARD DATE: 20100616

SEPARATION DATE: 20070515

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SUMMARY OF CASE: This covered individual (CI) was a LCPL/E3 (Combat Engineer) medically separated from the Marine Corps in 2007 after 2 years of service. The medical basis for the separation was Post Traumatic Stress Disorder (PTSD). PTSD was determined to be medically unacceptable and the CI was referred to the Physical Evaluation Board (PEB), found unfit for continued naval service and separated at 10% disability using the Veterans Affairs Schedule for Ratings Disabilities (VASRD) and applicable Navy and Department of Defense regulations.

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CI CONTENTION: “I was in the USMC for 2 years and 5 months. In that time I had two deployments to Iraq. (Continued) While on active duty I had struggled with these two tours. There was a 3 month turnaround between tours and I knew that something was wrong. I tried to seek help, but I still don’t believe that there is a “cure” from PTSD. With the war behind me now, I still struggle w/symptoms of PTSD. I am currently on medication to help cope with life. I take an anti-depressant and a high dose of sleeping aid. Without them I cannot make it. I have never had these problems before the USMC. I am still withdrawn from friends and family and still have panic attacks. (Continued) A 10% disability rating, from the Marine Corp tells me that these problems are a joke and not taken seriously. I beg to differ.”

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RATING COMPARISON:

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Service | | | | VA (2 Months after Separation) | | | | |
| Unfitting Conditions | Code | Rating | Date | Condition | Code | Rating | Exam | Effective |
| PTSD | 9411 | 10% | 20070321 | PTSD | 9411 | 30% | 20070725 | 20070516 |
| Alcohol Dependence in Early Full Remission | CAT IV |  | 20070321 | No VA Entry |  |  |  |  |
|  |  | Not in DES | | Tinnitus | 6260 | 10% | 20070725 | 20070516 |
|  |  | Med Hx 200702222: Decrease Hearing Subjective | | Sensorineural Hearing Loss, Right Ear | 6100 | 0% | 20070725 | 20070516 |
| TOTAL Combined: 10% | | | | TOTAL Combined (Includes Non-PEB Conditions): 40% | | | | |

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ANALYSIS SUMMARY:

The CI deployed to Iraq twice during his two and a half years of service. During his first deployment he was in the direct vicinity of an improvised explosive device (IED) that killed two of his platoon members and he assisted with the transportation of the bodies. This affected him a great deal but he was able to successfully complete his deployment. After he returned he had symptoms of PTSD including difficulty sleeping, nightmares, difficulties with anger management and poor frustration tolerance. He was drinking a significant amount of alcohol and had been referred to Substance Abuse Rehabilitation Program (SARP) treatment. This treatment was deferred as he was scheduled for a second deployment and had been determined psychiatrically fit for full duty by a psychiatrist.

He successfully completed his second deployment but began drinking heavily after he returned and exhibited problems with the transition from combat. He returned for continued psychiatric care and had significant worsening of his PTSD symptoms as well as an exacerbation of his alcohol problem. He attended the SARP treatment and remained abstinent of alcohol for the remainder of his time in service. He attended an intensive two week outpatient program for PTSD and reported some benefit. He had previously been reluctant to use medication for his PTSD but agreed to try them after this program. However, he continued to have significant symptoms and was referred to the PEB.

The narrative summary (NARSUM) completed 20070205 documented continued symptoms of nightmares, intrusive thoughts of combat, hypervigilance, hyperarousal, exaggerated startle response, poor frustration tolerance, and generalized irritability with desires to be alone. The mental status examination documented the CI was noticeably hypervigilant, had mild-to-moderate psychomotor agitation, his affect was considerably anxious and his mood was agitated. He still endorsed suicidal ideations. He had no active homicidal ideations but he did report poor frustration tolerance and he feared he might harm someone else if provoked. He had previously been in fights. His impulse control and judgment were considered somewhat impaired and his insight was fair. His alcohol dependence was in full remission. He remained on Zoloft and Seroquel and was attending weekly group therapy but continued to have symptoms, was considered to be psychiatrically unfit for continued service and referred to the PEB. It was not felt that he would ever be able to recover fully to the extent of being able to function as a full duty Marine. His current Global Assessment of Functioning (GAF) was 45.

His original VA Compensation and Pension (C&P) evaluation was completed 20070725, only two months after he separated 20070515. At that time he was employed full time as a garbage truck driver and was taking his medication. He spent his free time mostly at home. He liked to go to the gym or watch TV. He did not go out all that much. He was able to take care of his Activities of Daily Living (ADLs). He continued to have symptoms of nightmares and bad dreams, hypervigilance, easy startle reflex, depression with diminished interest, poor energy, poor concentration, and poor sleep. These symptoms were moderate and he had them most days. He lived alone and tended to isolate himself from other people. Mental status examination documented his mood was depressed, his affect was blunted, and his impulse control was below average. His insight and judgment were fair. His symptoms were considered moderate and his GAF was 50.

No further treatment records are available, in particular related to his functional status in November 2007, six months after he separated.

Other VA Conditions found in Disability Evaluation System (DES) package: Sensorineural Hearing Loss

This condition does not appear to be unfitting. It does not interfere with satisfactory performance of required duties and no restrictions attributable to this condition.

Other Conditions Not in DES.

Tinnitus

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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. After careful consideration of all available information the Board unanimously determined that the CI’s condition of PTSD warrants 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.

At both the NARSUM exam and the VA C&P exam, the CI had, in addition to multiple moderate and frequent symptoms of PTSD, objective signs of mental illness documented on the mental status exam and this supports a 50% rating under the VASRD General Rating Formula for Mental Disorders (VASRD §4.130). Objective signs of mental illness were also noted by his Commander. However, the CI was generally functioning satisfactorily after separation with routine behavior, self-care and conversation normal and was able to obtain employment as a garbage truck driver. He was taking medication. The Board determined his PTSD condition met some of the 50% criteria but overall his functional impairment was closer to the 30% level than to the 50% level. Although information about his condition at six months after separation was not available, the two exams considered were five months apart and they both document almost identical levels of functional impairment. The Board considers the CI’s condition to have been stable and therefore it is extremely unlikely that he improved significantly after the time of the VA C&P exam.

The Board also considered the condition of sensorineural hearing loss and unanimously determined that this condition was not unfitting at the time of separation from service. There is no evidence this condition interfered with satisfactory performance of any required duties.

The other diagnosis rated by the VA (Tinnitus) was not mentioned in the Disability Evaluation System package and is therefore outside the scope of the Board. The CI retains the right to request his service Board of Correction for Naval Records (BCNR) to consider adding this condition as unfitting.

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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 combined 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 20090820, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

Deputy Directory

Physical Disability Board of Review

MEMORANDUM FOR DEPUTY COMMANDANT, MANPOWER & RESERVE AFFAIRS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATION

Ref: (a) DoDI 6040.44

Encl: (1) PDBR ltr dtd 24 Jun10

1. I have reviewed the subject case pursuant to reference (a). The subject member’s official records are to be corrected to reflect the following disposition:

a. Separation from the naval service due to physical disability with placement on the Temporary Disability Retired List with a disability rating of 50 percent for the period 15 May 2007 thru 14 November 2007.

b. Final separation from naval service due to physical disability effective 15 November 2007 with a disability rating of 10 percent and entitlement to disability severance pay.

3. Please ensure all necessary actions are taken to implement this decision, including the recoupment of previously paid funds if appropriate, and notification to the subject member once those actions are completed.

Principal Deputy

Assistant Secretary of the Navy

(Manpower & Reserve Affairs)