RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXX BRANCH OF SERVICE: MARINE CORPS

CASE NUMBER: PD0900556 BOARD DATE: 20100707

SEPARATION DATE: 20080215

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SUMMARY OF CASE: This covered individual (CI) was Cpl, Infantryman medically separated from the Marine Corps in 2008 after nearly four years of service. The medical basis for the separation was Post Traumatic Stress Disorder (PTSD). Bipolar Disorder was determined to be medically acceptable. The CI was referred to the Physical Evaluation Board (PEB), determined to be unfit for continued military 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: NO STATEMENT WAS PROVIDED BY CI

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RATING COMPARISON:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Service PEB** | | | | **VA** | | | | |
| **Unfitting Conditions** | **Code** | **Rating** | **Date** | **Condition** | **Code** | **Rating** | **Exam** | **Effective** |
| Chronic Post Traumatic Stress Disorder | 9411 | 10% | 20071220 | Post Traumatic Stress Disorder w/Bipolar Disorder | 9411 | 50%  To  0% | None | 20080216  20100201 |
| Bipolar II Disorder | Cat II |  |  | Had comprehensive VA exam 20091230 | | | | |
| **TOTAL Combined: 10%** | | | | **TOTAL Combined (*Includes Non-PEB Conditions*):**  **50% from 20080216**  **0% from 20100201 (for failure to show for exam)** | | | | |

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ANALYSIS SUMMARY:

Post Traumatic Stress Disorder

The CI was diagnosed with PTSD while deployed to Iraq after experiencing multiple traumatic events. He continued to have problems that required treatment and several medications were tried but none alleviated his symptoms. At the time of the narrative summary (NARSUM) examination he was on Lexapro and Lithium. He had multiple persistent symptoms of PTSD that caused both occupational and social functioning problems. He had daily anxiety, recurrent flashbacks and nightmares, aversion to discuss the traumatic events in therapy, decreased interest in activities, inability to form and maintain social relationships, easy startle, mood instability including tearfulness during duty hours, and inability to focus on the task at hand. On examination he displayed an acute situational awareness that was beyond that expected for even a deployed Marine and his affect was slightly constricted. He was acutely perceptive to the office environment. He also demonstrated blocking and circumstantial process when describing details of his traumatic experience. His Global Assessment of Functioning (GAF) was reported as 55. He was separated from the Marine Corps 20080215 with a 10% rating for PTSD.

The Veterans Administration (VA) initially assigned a 50% rating for VASRD 9411 PTSD IAW VASRD §4.129 based on the CI’s history of separation from service for PTSD. However, the CI failed to show up for multiple scheduled VA Compensation and Pension (C&P) exams and the PTSD rating was decreased to 0% because of the lack of information to provide an accurate disability description.

However, the CI was actively engaged in treatment for PTSD at the VA. He was not on medication initially but Zoloft was later added. This medication was subsequently discontinued secondary to side effects but the CI remained in therapy. A complete psychiatric evaluation was performed 20091230 at the Salisbury VA and this exam documented symptoms similar to those documented on the NARSUM examination as well as memory problems and increased symptoms on anniversary dates and after triggers such as movies. He continued to have intermittent nightmares, frequent sleep disturbance, and general mood lability and irritability. He did not have flashbacks but described ‘zoning out’ episodes which appeared to be absence phenomena. He could only handle crowds if he was drinking and otherwise got very angry and irritable in crowds. He also reported hypervigilance, especially in crowds. He was not employed but was attending school full time at a community college. No performance information is available but the CI admitted to decreased motivation and stated his grades could be better. He also admitted more than moderate levels of alcohol use with occasional binge behavior on weekends. He was currently living with his girlfriend and they were expecting a baby. His GAF was reported as 55, the same as on the NARSUM examination approximately two years earlier.

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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. The PEB did not apply VASRD §4.129 to the CI’s PTSD adjudication as mandated by NDAA 2008 in effect at the time. In the matter of the PTSD condition, the Board unanimously recommends an initial Temporary Disability Retired List (TDRL) rating of 50% IAW VASRD §4.129, and a 30% permanent rating at 6 months IAW VASRD §4.130.

At both the time of the NARSUM examination in December 2007 and the VA psychiatric evaluation in December 2009 the CI’s functional limitations due to mental illness support a 30% rating for PTSD. Although he is generally functioning normally, he continued to have frequent moderate symptoms of PTSD that interfered with his occupational, social, and school functioning. His condition appears to have been stable over time and more likely than not, his level of functioning was at this same level in August 2008, six months after he separated from service.

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RECOMMENDATION: The Board recommends that the CI’s prior separation be recharacterized to reflect that rather than discharge with severance pay, the CI was placed on the TDRL at 50% for a period of six months (PTSD at 50% IAW §4.129 and DoD direction) and then permanently retired by reason of physical disability with a final 30% rating as indicated 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 20090904, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

President

Physical Disability Board of Review

MEMORANDUM FOR DEPUTY COMMANDANT, MANPOWER & RESERVE AFFAIRS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATION

ICO XXXXX, FORMER USMC, XXX XX XXXX

Ref: (a) DoDI 6040.44

Encl: (1) PDBR ltr dtd 14 Jul10

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 February 2008 thru 14 August 2008.

b. Final separation from naval service due to physical disability effective 15 August 2008 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)