RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXX BRANCH OF SERVICE: MARINE CORPS

CASE NUMBER: PD0900654 BOARD DATE: 20100914

SEPARATION DATE: 20070531

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SUMMARY OF CASE: This covered individual (CI) was a Sergeant, Aviation Mechanic medically separated from the Marine Corps in 2007 after almost four years of service. The medical basis for the separation was right scaphoid non-union status post open reduction internal fixation with distal radius bone graft. The CI remained symptomatic after surgery and was unable to perform the duties required of his rank and position. The CI was referred to the Physical Evaluation Board (PEB), found unfit for continued Naval service, and separated at 20% disability using the Veterans Affairs Schedule for Ratings Disabilities (VASRD) and applicable Navy and Department of Defense regulations.

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CI CONTENTION: The CI states: ‘Please review the medical records regarding physical evaluation board review.’

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RATING COMPARISON:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Service PEB** | | | | **VA (<1 Month Pre-Separation)** | | | | |
| **Unfitting Conditions** | **Code** | **Rating** | **Date** | **Condition** | **Code** | **Rating** | **Exam** | **Effective** |
| Right Scaphoid nonunion status post open reduction internal fixation w/distal radius bone graft | 5299-5213 | 20% | 20070411 | Nonunion Fracture of the Right Scaphoid Status Post Open Reduction & Internal Fixation w/Distal Radial Bone Graft & Scar | 5215 | 10%  10% | 20070510  20080331 | 20070601 |
|  |  | Not in DES | | Right Shoulder Subacromial Bursitis with Mild Impingement | 5203-5019 | 0%  10% | 20070510  20080331 | 20070601 20071214 |
|  |  | Not in DES | | Right Medial Epicondylitis and Triceps Tendinitis | 5207-5024 | 0%  10% | 20070510  20080331 | 20070601 20071214 |
|  |  | Not in DES | | Thoracic Strain | 5237 | 0%  10% | 20070510  20080331 | 20070601 20071214 |
|  |  | Not in DES | | Patellofemoral Syndrome, Right | 5260 | 0%  10% | 20070510  20080331 | 20070601 20071214 |
|  |  | Not in DES | | Patellofemoral Syndrome, Left | 5260 | 0%  10% | 20070510  20080331 | 20070601 20071214 |
|  |  | Not in DES | | Right Wrist Scar | 7804 | 10% | 20070510 | 20071214 |
|  |  | Not in DES | | OCD with ADHD and Adjustment Disorder with Anxiety and Depression | 9404-9400 | 10% | 20080617 | 20070601 |
|  | Pneumonia in MEB H&P | | | Bronchiectasis | 6601 | 30% | 20090113 | 20081031 |
|  |  | Not in DES | | 3 Not Service Connected |  |  |  |  |
| **TOTAL Combined: 20%** | | | | **TOTAL Combined (*Includes Non-PEB Conditions*):**  **20% from 20070601**  **60% from 20071214 (Bilateral Factor of 1.9% 5260/5260)**  **70% from 20081031 (Bilateral Factor of 1.9% 5260/5260)** | | | | |

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**ANALYSIS SUMMARY:**

The CI was a United States Marine Corps Sergeant Aviation mechanic. At the time of his narrative summary (NARSUM) (20070308) he was a 21-year-old male who initially sustained injury to his right wrist in August of 2006 as a result of falling while mopping the bathroom, but did not present to the Orthopedic Clinic until approximately six months after the injury. At that time, he was diagnosed with an unrecognized non-union scaphoid fracture. He continued to have persistent pain at the fracture site as well as continued radiographic evidence of a nonunion of his Scaphoid fracture. He also noted decreased strength and range of motion of his wrist secondary to his fracture. Treatment options were discussed with the patient, and the patient elected to proceed with an open reduction internal fixation with local distal radius cancellous graft bone grafting of his scaphoid fracture on 20060818. The CI continued to report decreased range of motion and pain at the radial aspect of his wrist postoperatively. He continued to work with Occupational Therapy and to use a bone electrical stimulator, but his overall progress had plateaued by approximately six months postoperatively. The NARSUM examination documented the patient's right wrist shows range of motion with extension to 70, flexion to 45, pronation to 60, and supination to 45. There was pain over the radial aspect of his wrist with all extremes of range of motion, but especially with extension and radial deviation of his wrist. He had tenderness to palpation in his snuff box, as well as tenderness to palpation to his Scaphoid tubercle. He had pain with axial load of his thumb. His scar was well-healed over the volar aspect of his wrist with minimal tenderness to palpation. His sensation was intact to light touch and two point in the radial, ulnar and median nerve distributions. Shrink testing was performed on his wrists bilaterally with a Jamar and a pinch meter at settings 1, 3 and 5. The CI was noted to have strength on the right of 50 pounds at 1, 45 pounds at 3, and 35 pounds at 5. He was noted to have pinch grip strength of 16 pounds and Keith grip strength of 19 pounds. On the contralateral non-injured left, he was noted to have strength of 70 pounds at Jamar setting 115, Jamar setting 315, Jamar setting 530, which maxes out the meter for pinch grip, and 30 which maxes out the meter for key grip equating to a significant decrease in strength of the injured side compared to the non-injured side.

The Commanders Statement documented that he was unable to perform the duties required of a seat mechanic during deployment. He had weakness and pain as a result of his scaphoid fracture nonunion and surgery did not lead to relief of these symptoms. The scar from his surgery did not interfere with the performance of any required duties and therefore is not unfitting. The PEB determined the CI was unfit for continued Naval service and he was separated with a 20% disability rating. There is no VASRD code specific for nonunion of a scaphoid fracture so the condition was rated analogous to VASRD 5213 Supination and Pronation, impairment of. The VA applied VASRD 5215 Wrist, limitation of motion of which has a maximum 10% rating. This code is not specific for scaphoid fracture nonunion.

Other Conditions:

Bronchiectasis -- On the MEB History and Physical the CI noted he had a history of pneumonia while at Boot Camp in July 2003 with hospitalization for one week. He had also coughed up blood, had shortness of breath, and was prescribed an inhaler. The provider noted on the DD Form 2807-1 that ‘This was the only time he complained of breathing trouble.’ At the time of his discharge, there were no pulmonary related complaints and his lung examination was normal. He was initially denied a service connected disability for any pulmonary conditions, but after requiring two additional hospitalizations for pneumonia and a diagnosis of bronchiectasis was made after discharge from the Service, this condition was recharacterized. It was determined to be service connected and rated at 30% effective 20081031, more than three years after the CI separated from service. It appears the condition worsened over time. A letter from the CI to the VA stated he had a total of four episodes of pneumonia while on active duty. Three episodes were treated in the outpatient setting. However, it was not an active complaint at the time of his DES processing, but only noted on the history. There is insufficient evidence to demonstrate that this condition was unfitting at the time of separation from service. There is no documentation that it interfered with satisfactory performance of required duties.

Other Conditions Not in the Disability Evaluation System (DES):

Right Shoulder Subacromial Bursitis with Mild Impingement; Right Medial Epicondylitis and Triceps Tendinitis; Thoracic Strain; Bilateral Patellofemoral Syndrome; and Obsessive-Compulsive Disorder w/Attention-Deficit Hyperactivity Disorder & Adjustment Disorder w/Anxiety and Depression

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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 is most accurately rated at 20% under 5299-5213 Right Scaphoid Nonunion.

There is no VASRD code specific for Scaphoid Fracture Nonunion and the PEB and the VA applied different VASRD codes. Either code could be used but the 20% evaluation under 5299-5213 more accurately represents the CI’s disability picture and therefore it should be used IAW VASRD §4.7, higher of two evaluations.

The Board also considered the conditions of Right Wrist Scar and Bronchiectasis and unanimously determined that neither condition was unfitting at the time of separation from service and therefore no disability rating is applied to either condition. There was no evidence that either condition interfered with performance of any required duties.

The other diagnoses rated by the VA (Right Shoulder Subacromial Bursitis with Mild Impingement; Right Medial Epicondylitis and Triceps Tendinitis; Thoracic Strain; Bilateral Patellofemoral Syndrome; and Obsessive-Compulsive Disorder w/Attention-Deficit Hyperactivity Disorder & Adjustment Disorder w/Anxiety and Depression) were not mentioned in the Disability Evaluation System package and are 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 these conditions as unfitting.

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RECOMMENDATION: The Board therefore recommends that there be no recharacterization of the CI’s disability and separation determination.

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20091028 w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

Deputy Director

Physical Disability Board of Review

MEMORANDUM FOR DIRECTOR, SECRETARY OF THE NAVY COUNCIL OF REVIEW

BOARDS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATION

ICO XXXX

Ref: (a) DoDI 6040.44

(b) PDBR ltr dtd 8 Sep 10

I have reviewed the subject case pursuant to reference (a) and approve the recommendation of the Physical Disability Board of Review (reference (b)) that Mr. XXXX’s records not be corrected to reflect a change in either his characterization of separation or in the disability rating previously assigned by the Department of the Navy’s Physical Evaluation Board.

Principal Deputy

Assistant Secretary of the Navy

(Manpower & Reserve Affairs)