RECORD OF PROCEEDINGS

PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXX BRANCH OF SERVICE: MARINE CORPS

CASE NUMBER: PD0900723 SEPARATION DATE: 20070531

BOARD DATE: 20110729

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SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty LCpl (0341, Mortarman) medically separated from the Marine Corps. The medical basis for the separation was brief psychotic disorder, not otherwise specified (NOS). The CI did not respond adequately, was unable to perform within his military occupational specialty, and was referred to a Medical Evaluation Board (MEB). The MEB forwarded other and unspecified reactive psychosis to the Physical Evaluation Board (PEB) on NAVMED 6100/1. The PEB adjudicated brief psychotic disorder as unfitting rated 10%. The CI made no appeals and was medically separated with a 10% combined disability rating.

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CI CONTENTION: “[CI] was correctly diagnosed with schizoaffective bipolar disorder before discharge, and continues to be affected by the severity of his illness.” He elaborates no specific contentions regarding rating or coding and mentions no additionally contended conditions.

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RATING COMPARISON:

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| --- | --- | --- | --- | --- | --- | --- |
| **Service IPEB – Dated 20070405** | | | **VA (1 Mo. After Separation) – All Effective 20070601** | | | |
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Brief Psychotic Disorder, NOS | 9299-9210 | 10% | Schizoaffective Disorder, Bipolar Type | 9211 | 70% | 20070702 |
| Occupational Stressors | CAT II | | 0% x 0, NSC x 0 | | | |
| ↓No Additional MEB/PEB Entries↓ | | |
| **Combined: 10%** | | | **Combined: 70%** | | | |

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ANALYSIS SUMMARY:

Mental Condition. The CI initially presented to the mental health clinic on 5 March 2007 with a history of auditory hallucinations, hearing his own voice command him to hurt himself. He had tried to cut his wrist and to break his leg. He showed evidence of paranoid delusions such as people being out to get him and of his command wanting to keep him from his family. During this time he had not been able to sleep well, averaging three to four hours per night. The CI experienced flight of ideas several times per day. He was admitted for inpatient psychiatric treatment on 5 March 2007, three months pre-separation, with a diagnosis of brief psychotic disorder, rule out schizophrenia. He responded well to medication with temporary resolution of auditory hallucinations. He had a normal mental status exam and was asymptomatic at discharge on medication on 13 March 2007. His admission global assessment of functioning (GAF) was 21-30, indicating considerable influence by delusions or hallucinations; and at discharge was 61-70. The narrative summary (NARSUM) of 13 March 2007, two-and-a-half months pre-separation, stated that, “The patient is unfit for military duty as he has a condition that causes him to be a serious liability with a high risk for destructive behavior that could be catastrophic to himself or those around him with routine military stressors. It is further of the opinion that the patient’s psychiatric condition manifests itself with mild to moderate interference with social and civilian adaptability. Although the patient will be able to handle a 40-hour work week, his propensity for paranoia and hallucinations significantly reduces his chances for sustained success in any civilian endeavor. The Medical Board recommends that this member's case be referred to the Central Physical Evaluation Board.” There was a final military treatment note on 25 May 2007, one week before separation, noting that the CI felt better than any time in the last year, with no hallucinations or other signs of psychosis. His GAF was 76. The PEB on 10 April 2007 adjudicated the brief psychotic disorder as unfitting, coded 9299-9210 (psychotic disorder, not otherwise specified), with a 10% rating. His occupational stressors was determined to be a related category 2 diagnosis.

Upon follow-up post-hospital discharge, but prior to military discharge, the CI continued to experience symptoms and underwent numerous medication changes. On 16 April 2007 at a psychiatric appointment, it was noted that the CI continued to experience symptoms of both a cyclical and mood disorder, as well as psychosis. On 16 May 2007, the CI was seen for follow-up care for medication management prior to discharge. The CI was prescribed Abilify, Depakote, Cogentin, and Seroquel. His final diagnosis was schizoaffective disorder. The condition was no longer considered to be a brief psychotic episode.

The VA compensation and pension examination on 2 July 2007, one month after separation, noted auditory hallucinations, anxiety, agitation, irritability, impulsivity and paranoid thinking. There was an affective component including sadness, depression, sleep disturbance, social isolation and decreased energy, disturbed sleep, impulsivity, poor judgment, buying expensive items and irritability. There were auditory hallucinations and paranoid delusions and thinking, difficulty with concentration and focus. He denied homicidal or suicidal ideation. The VA confirmed the diagnosis of schizoaffective disorder, bipolar type with a GAF of 40, indicating impairment of reality testing or major involvement of several areas. The VA rating decision on 13 July 2007, one-and-a-half months after separation rated the schizoaffective disorder, bipolar type, code 9211 (schizoaffective disorder) at 70%. A later VA rating decision on 29 May 2009, two years after separation, noted worsening symptoms with persistent auditory hallucinations, suicidal ideation and depression. The GAF was 38, and he was felt to have total occupational and social impairment resulting in a rating increase to 100%.

The PEB and VA chose different coding options for the condition, but both refer to the same rating criteria and neither offers an advantage to the CI. The Board did discuss coding options and agrees that code 9211 (schizoaffective disorder) is a more accurate indicator of the CI’s medical condition. As is typical with schizoaffective disorder bipolar type, symptoms typically cycle, wax and wane. The Board notes that with this condition any brief improvement is always followed by recurrence of symptoms which preclude any stable occupation.

The MEB NARSUM prior to separation indicated high risk for destructive behavior that could be catastrophic to the CI or those around him with routine military stressors and the increased propensity for paranoia and hallucinations which significantly reduces his chances for sustained success in any civilian endeavor. These predictions seem to have become manifest in the period after his separation with a VA rating of 70% one-and-a-half months after separation and 100% at two years. The VA examination one-month post-separation has the highest probative value as it is the closest to separation and was a comprehensive detailed examination. The Board’s deliberation settled on arguments for 70% or 100% rating and one member advocating for 30% rating, based on the apparent good response to early treatment; however, the Board majority noted the nature of the condition and how it is typical to have periods of few symptoms interspersed with episodes of very severe disease. The Board noted that the NARSUM was written at the time of the initial hospitalization, but also noted that during that hospitalization the diagnosis of schizophrenia was also considered, and that the CI was discharged on medications which were not consistent with a diagnosis of brief psychotic episode, but rather ongoing psychosis. The Board additionally noted that the diagnosis of schizoaffective disorder was made prior to military discharge, and that the NARSUM psychiatric examiner stated, “The patient is unfit for military duty as he has acondition that causes him to be a serious liability with a high risk for destructive behavior that could be catastrophic to himself or those around him…his propensity for paranoia and hallucinations significantly reduces his chances for sustained success in any civilian endeavor.” The Board also has the benefit of more information as to the course of the illness during the period of time between the time of the NARSUM and the actual discharge which indicates clearly that the psychotic episode was not an isolated event, but part of a schizoaffective disorder. After due deliberation, considering the totality of the evidence and mindful of VA Schedule for Rating Disabilities (VASRD) §4.3 (reasonable doubt), the Board recommends a rating of 70%, code 9211 (schizoaffective disorder), for the psychotic disorder.

Remaining Conditions. The only other condition identified in the Disability Evaluation System file was frequent headaches. This condition was not clinically active during the MEB period, was not the basis for limited duty, and was not implicated in the non-medical assessment. The condition was reviewed by the action officer and considered by the Board. It was determined that it could not be argued as unfitting and subject to separation rating. The Board therefore has no reasonable basis for recommending any additional unfitting conditions for separation rating.

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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 Board did not surmise from the record or PEB ruling in this case that any prerogatives outside the VASRD were exercised. In the matter of the brief psychotic disorder, NOS condition the Board, by a vote of 2:1, recommends a rating of 70% coded 9211. The single voter for dissent submitted the addended minority opinion. The Board unanimously agrees that there were no other conditions eligible for Board consideration which could be recommended as additionally unfitting for rating at separation.

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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 his prior medical separation:

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| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Schizoaffective Disorder, Bipolar Type | 9211 | 70% |
| **COMBINED** | **70%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20100121, w/atchs.

Exhibit B. Service Treatment Record.

Exhibit C. Department of Veterans' Affairs Treatment Record.

President

Physical Disability Board of Review

MINORITY OPINION:

The PEB decision was based on the narrative summary done on 13 March 2007 which documented improving symptoms and a GAF of 61-70, as well as a non medical assessment which documented that the CI was performing well and able to work a 40-hour work week. It is my opinion that the PEB’s 10% rating was therefore consistent with the evidence at hand. It is fairly conceded, however, that the severity of CI’s psychiatric impairment and indeed the Axis I diagnosis itself changed in the period between the PEB’s adjudication and actual separation. A service psychiatric entry of 16 April 2007 changed the diagnosis to schizoaffective disorder, which is a more permanent condition with a worse prognosis than the diagnosis presented to the PEB.

Service evidence prior to separation documents a deteriorating course with a falling GAF and an increase in medications. The last service behavioral health note dated 16 May 2007 (two weeks from separation) noted that the CI had improved since hospital admission, although he was experiencing some relapse of symptoms due to the stress of his pending discharge. He was back at duty, although late for formations on occasion because of oversleeping on his new medications. The majority rating recommendation of 70% leans heavily on VA evidence after separation. The post-separation VA examination clearly describes a worse picture than the one derived from Service entries at separation. That would be expected from the immediate stressors confronting the CI upon release from military service and structured support. Neither VASRD §4.129 mandates nor any other post-separation developments are applicable to the Board’s recommendation in this case. In my opinion, the majority recommendation assigns undue probative value to the post-separation VA evaluation. It is my belief that a fair rating based on available evidence applicable to the date of separation is best aligned with the §4.130 criteria for a 30% rating, i.e., “occupational and social impairment with occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks.”

I respectfully submit the following minority recommendation for the Secretary’s consideration:

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| **UNFITTING CONDITION** | **VASRD CODE** | **RATING** |
| Schizoaffective Disorder, Bipolar Type | 9211 | 30% |
| **COMBINED** | **30%** |

MEMORANDUM FOR DEPUTY COMMANDANT, MANPOWER & RESERVE AFFAIRS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATION

ICO XXXXXX, FORMER USMC, XXX XX XXXX

Ref: (a) DoDI 6040.44

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 retroactive disposition:

a. Separation from Naval Service due to physical disability effective 31 May 2007 with a disability rating of 30 percent and placement on the Permanent Disability Retired List.

2. 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)