RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXXX
CASE NUMBER: PD1100639
BOARD DATE: 20120911

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20040212

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SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an activated Reserve member, SPC/E-4 (88M, Motor Transport Operator), medically separated for a headache condition. The CI experienced an onset of headaches after a head injury in 2001, which were exacerbated during a 2003 mobilization. At that time they were associated with syncope, and the CI was diagnosed with cavernous hemangiomas (congenital vascular tumors of the brain). The condition could not be adequately stabilized to fulfill the requirements of his Military Occupational Specialty (MOS). He was consequently issued a permanent P3 profile and referred for a Medical Evaluation Board (MEB). The headache condition was forwarded to the Informal Physical Evaluation Board (IPEB) as medically unacceptable IAW AR 40-501. Syncope and cavernous hemangiomas were also forwarded by the MEB as separate medically unacceptable conditions. The IPEB adjudicated the headache condition as unfitting, rated 10%, citing criteria of the Veterans Affairs Schedule for Rating Disabilities (VASRD). The remaining conditions were determined to be not unfitting. The CI appealed to a Formal PEB (FPEB), which re-coded the headache condition; but arrived at the same 10% rating (IAW the VASRD), and also determined that the syncope and cavernous hemangioma conditions were not unfitting. The CI made no further appeals, and was medically separated with a 10% disability rating.

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CI CONTENTION: "Because the injury, I was discharged from military and now I suffer from it daily. It affects my work life, personal life; aspects of my life deteriorate on a monthly basis. The medicines the army put me on to try to help have messed me up and made my muscle tension headaches worse". He further elaborates the current frequency, severity, and adverse occupational consequences of his headaches. He lists other conditions for which he has received VA ratings, but the application does not mention the syncope or cavernous hemangioma conditions.

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SCOPE OF REVIEW: The Board wishes to clarify that the scope of its review as defined in DoDI 6040.44, Enclosure 3, paragraph 5.e.(2) is limited to those conditions which were determined by the PEB to be specifically unfitting for continued military service; or, when requested by the CI, those condition(s) "identified but not determined to be unfitting by the PEB". The rating for the unfitting headache condition is addressed below; but, since they were not requested for review, the syncope and cavernous hemangioma conditions (as a separate entities associated with any disability other than headache) determined to be not unfitting by the PEB are not within the DoDI 6040.44 defined purview of the Board. Those, and any other conditions or contention not requested in this application, remain eligible for future consideration by the Army Board for Correction of Military Records.

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RATING COMPARISON:

| Service FPEB – Dated 20031120 | | | VA (5 Mo. Post-Separation) –Effective 20040213 | | | |
|---|---|---|---|---|---|---|
| **Condition** | **Code** | **Rating** | **Condition** | **Code** | **Rating** | **Exam** |
| Muscle Contraction Headaches | 5399-5323 | 10% | Muscle Tension Headaches | 8100 | 0% | 20040726 |
| Syncope | Not Unfitting | | Not identified for VA rating. | | | 20040726 |
| Cavernous Hemangiomas | Not Unfitting | | Cavernous Hemangiomas | | NSC* | 20040726 |
| No Additional MEB/PEB Entries. | | | Lumbosacral Strain | 5237 | 10% | 20040726 |
| | | | PFS, Right Knee | 5257 | 10% | 20040726 |
| | | | 0% X 2 / Not Service Connected x 4 | | | 20040726 |
| **Combined: 10%** | | | **Combined: 20%** | | | |

*Not Service Connected. VA decision states: "The service medical records revealed when trying to determine the cause of your headaches, the hemangioma was found on scanning. It was the examiner's opinion [shared by the action officer], and the evidence of record, that this hemangioma was not due to the head injury, nor has it or was it aggravated by the injury you experienced or was it aggravated by your military service. … The condition identified as cavernous hemangioma (claimed as a brain tumor) is considered a congenital or developmental defect which is unrelated to military service and not subject to service connection."

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ANALYSIS SUMMARY: The Board acknowledges the sentiment expressed in the CI's application regarding the significant impairment with which his service-connected condition continues to burden him. It is a fact, however, that the Disability Evaluation System (DES) has neither the role nor the authority to compensate service members for anticipated future severity or potential complications of conditions resulting in medical separation. This role and authority is granted by Congress to the Department of Veterans Affairs (DVA). The DVA, operating under a different set of laws (Title 38, United States Code), is empowered to compensate service-connected conditions and to periodically re-evaluate said conditions for the purpose of adjusting the veteran's disability rating should the degree of impairment vary over time. The Board utilizes VA evidence proximate to separation in arriving at its recommendations; and, DoDI 6040.44 defines a 12-month interval for special consideration to post-separation evidence. The Board's authority as defined in DoDI 6044.40, however, resides in evaluating the fairness of DES rating determinations for the disability existing at the time of separation. Post-separation evidence therefore is probative only to the extent that it reasonably reflects the disability at the time of separation. The Board further acknowledges the CI's assertion that his condition was worsened by medication prescribed; but, must note for the record that it has neither the jurisdiction nor authority to scrutinize or render opinions in reference to such allegations; nor, may a higher disability rating be premised on such factors. The Board's role is confined to the review of medical records and all evidence at hand to assess the fairness of Service rating and fitness determinations at separation, as elaborated above.

Headache Condition. In March 2001, the CI suffered a head injury in his civilian workplace. Imaging at that time revealed brain lesions which were subsequently identified as cavernous hemangiomas. He developed headaches after that incident which were under treatment and reasonably controlled at the time he was mobilized in 2003. He suffered a fairly abrupt recurrence of headaches after resuming active duty; and, in March 2003 he experienced two syncopal episodes (with possibly a brief seizure). He underwent repeat imaging and consultations by neurology and neurosurgery, and suffered no recurrent syncope and/or seizures. His headaches persisted in spite of various medication regimens; and, in August 2003 his neurologist opined that the condition was not compatible with his MOS as a truck driver. Outpatient notes of this period reflect near-daily frequency of headaches, lasting for hours. Headache was more or less constant, and there was no documentation suggesting periods of complete relief with distinct quantifiable episodes. He was prescribed narcotics for rescue, and

responded poorly to various prophylactic medications. Other than emergency visits for syncope, there are no documented medical encounters for emergent treatment of headache. Neither the commander's statement nor other records document missed duty or quarters assignment due to the condition. An outpatient note from May 2003 documented, "the patient states his headaches continue, although they do not limit him in his ability to do his job he feels". There are no entries closer to separation which would suggest a change from this baseline. The narrative summary (NARSUM) stated "the headaches have been persistent and have been daily." There is no further elaboration of the ratable features of headache. The neurological examination was normal, as were all exams on record. At his VA Compensation and Pension (C&P) evaluations (5 months post-separation) the CI was employed full time as a salesman, taking college business courses, and "getting all A's." He was taking no medications and had experienced no recurrent seizures or syncope. None of the various VA examiners (general, neurologic, psychiatric) noted any recurrent episodic headaches of significant severity, and it was documented that the CI had missed no work due to his condition. Although the CI complained of difficulty concentrating, all VA neurological and mental status/cognitive examinations were normal.

The Board directs attention to its rating recommendation based on the above evidence. Both the PEB and VA rating nomenclature referenced the preceding head trauma (in 2001 and associated with the syncopal event of 2003); although, the action officer opines that the etiology of the headache may have been linked to the hemangiomas, vascular or tension headache, or a combination of factors. The IPEB's rating was, in fact, under 8045 (brain disease due to trauma). The FPEB's rating was under the muscle code 5323 (upper neck and suboccipital groups), although criteria under 8100 (migraine) were referenced on the DA Form 199. The Board concluded, since the association with head injury was moot (maximum rating for 8045 is 10%) and a rating for muscle disability is not applicable to the clinical features; that, a rating under 8100 (as per the VA) was most appropriate to the case. The VASRD §4.124a rating schedule for 8100 rests heavily on the frequency of "characteristic prostrating attacks … over last several months"; and, it is incumbent on the Board to apply DoDI 6040.44-compliant and uniform criteria which would define a recurrent migraine episode as 'prostrating' and ratable. Under DoDI 6040.44, the Board is directed to: "use the VASRD in arriving at its recommendations, along with all applicable statutes, and any directives in effect at the time of the contested separation (to the extent they do not conflict with the VASRD in effect at the time of the contested separation)." Since the VASRD does not provide a definition of 'prostrating', it can be argued that the Board is directed to apply the DoDI 1332.39 definition which requires evidence that medical treatment is sought for each rated episode. The Board, by precedence, has not required rigid proof of medical attention for each and every episode to characterize it as prostrating; but, does require reasonably convincing evidence that rated attacks force the abandonment of work or current activity to treat the migraine; although, self-management (medication and/or sleep) under outpatient monitoring and supervision has been accommodated within this threshold. The Board carefully considered the historical and subjective data presented, but was ultimately confronted by the paucity of objective evidence or corroborating subjective evidence that the ratable threshold was met for any occurrence of migraine in this case. This conclusion, in strict conformity with the 8100 criteria, yields a 0% rating as conferred initially by the VA (subsequently raised to 10% effective 30 December 2004); although, IAW DoDI 6040.44 the Board's recommendations cannot result in a lower combined rating than that awarded by the Service. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication of the headache condition.

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 headache condition and IAW VASRD §4.124a, the Board unanimously recommends no change in the PEB adjudication. There were no other conditions within the Board's scope of review for consideration.

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RECOMMENDATION: The Board, therefore, recommends that there be no recharacterization of the CI's disability and separation determination, as follows:

| UNFITTING CONDITION | VASRD CODE | RATING |
|---|---|---|
| Muscle Contraction Headache | 5399-5323 | 10% |
| | **COMBINED** | **10%** |

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The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20110815, w/atchs
Exhibit B. Service Treatment Record
Exhibit C. Department of Veterans Affairs Treatment Record

XXXXXXXXXXXXXXX
President
Physical Disability Board of Review

SFMR-RB

MEMORANDUM FOR Commander, US Army Physical Disability Agency
(TAPD-ZB / ), 2900 Crystal Drive, Suite 300, Arlington, VA 22202-3557

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation for XXXXXXXXXXXXXXXXXXXX, AR20120021438 (PD201100639)

I have reviewed the enclosed Department of Defense Physical Disability Board of Review (DoD PDBR) recommendation and record of proceedings pertaining to the subject individual. Under the authority of Title 10, United States Code, section 1554a, I accept the Board's recommendation and hereby deny the individual's application.
This decision is final. The individual concerned, counsel (if any), and any Members of Congress who have shown interest in this application have been notified of this decision by mail.

BY ORDER OF THE SECRETARY OF THE ARMY:

Encl

XXXXXXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
( ) DoD PDBR
( ) DVA