

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME:
CASE NUMBER: PD1200174
BOARD DATE: 20121031

BRANCH OF SERVICE: MARINE CORPS
SEPARATION DATE: 20030315

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was a mobilized Reserve, LCPL/E-3 (0341, Mortar man), medically separated for migraine headaches. The CI developed severe headaches with two episodes of loss of consciousness (LOC) in February 2002. A diagnosis of migraine headaches was made. This condition could not be adequately rehabilitated with treatment to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was placed on limited duty [LIMDU] and referred for a Medical Evaluation Board (MEB). History of syncope and presyncope and history of somnambulism, identified in the rating chart below, were also identified and forwarded by the MEB. The Physical Evaluation Board (PEB) adjudicated the migraine headaches as unfitting, rated 10%, with application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD). The remaining conditions were determined to be not unfitting and determined to be Category III and IV. The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: "I believe the rating issued to me regarding my separation should be changed based on the loss of quality of life I have been reduced too. The migraines and the many triggers that bring them on prevent me from having a normal life. The intensity of the migraines has had documented side effects while I was on duty to include syncope (loss of consciousness) that continues today. I have also started having bilateral hand weakness that the VA has recognized as relating to my migraines as of August of 2008. Most recently (November 2011) the VA has diagnosed me with the anxiety disorder of Post Traumatic Stress Disorder relating back to my hospitalization in February of 2002 while on active duty."

SCOPE OF REVIEW: The Board wishes to clarify that the scope of its review as defined in the Department of Defense Instruction (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 ratings for unfitting conditions will be reviewed in all cases. The conditions migraines and syncope as requested for consideration meet the criteria prescribed in DoDI 6040.44 for Board purview; and, are addressed below. The other requested conditions (anxiety disorder/PTSD) are not within the Board's purview. Somnambulism is not a physical disability IAW DOD 1332.38 and will be discussed no further. Any conditions or contention not requested in this application, or otherwise outside the Board's defined scope of review, remain eligible for future consideration by the Board for Correction of Naval Records.

RATING COMPARISON:

Service IPEB – Dated 20030122			VA (5 Mos. Pre-Separation) – All Effective Date 20030316			
Condition	Code	Rating	Condition	Code	Rating	Exam
Migraine Headaches	8100	10%	Migraine Headaches	8100	30%	20021016
History of Syncope and Presyncope	Not Unfitting (CAT III)		Pre-syncope and syncope episodes	8199-9108	0%	20021016
History of Somnambulism	Not a disability (CAT IV)		Somnambulism	8999-8914	NSC	20021016
↓No Additional MEB/PEB Entries↓			DDD L spine	5010-5292	10%	20021016
			0% X 1 / Not Service-Connected x 1			
Combined: 10%			Combined: 40%			

ANALYSIS SUMMARY: The Disability Evaluation System (DES) is responsible for maintaining a fit and vital fighting force. While the DES considers all of the member's medical conditions, compensation can only be offered for those medical conditions that cut short a member's career, and then only to the degree of severity present at the time of final disposition. The DES has neither the role nor the authority to compensate members for anticipated future severity or potential complications of conditions resulting in medical separation nor for conditions determined to be service connected by the VA but not determined to be unfitting by the PEB. However, the Department of Veterans' Affairs, operating under a different set of laws (Title 38, United States Code), is empowered to compensate all 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's role is confined to the review of medical records and all evidence at hand to assess the fairness of PEB rating determinations, compared to VASRD standards, based on severity at the time of separation.

Migraine Headache Condition. The CI developed a febrile illness in February 2002 associated with loss of consciousness (LOC), cough, stiff neck, photophobia and severe headaches while preparing for involuntary mobilization. A diagnosis of viral syndrome was made after medical evaluation of the febrile illness. After initial treatment the headaches continued and were diagnosed as migraine headaches (HA). On a neurology evaluation performed on 8 July 2002, 8 months prior to separation, the CI noted HA two to three times a week of which one third were rated as 10/10 and remainder less intense (7-8/10). The CI was begun on migraine specific medication at the time. By 30 July 2002, the CI reported feeling better with symptoms improved and HA frequency reduced to one per week or less. However, on neurology exam for the MEB/NARSUM performed on 19 August 2002, 7 months before separation, the CI reported HA to occur daily but to be relieved by current daily medication. The dose of this medication was adjusted and new medications added to the CI's treatment regimen. The examining physician recorded that the CI could perform standard duties for periods up to 8 hours in total duration. On the VA Compensation and Pension (C&P) examination performed 16 October 2002, 5 months prior to separation, the CI noted the frequency of the HA to be 'dramatically' reduced on the new treatment regimen to twice a week or once a month and to be controlled, when occurring, with nonnarcotic oral medication. The CI was reported to 'be shown to have the ability to function during headache episodes.' At the time of the NARSUM addendum, 5 December 2002, 3 months before separation, HA symptoms were reported to be improving on new medications and the CI noted at least a 50% improvement in frequency and severity. On an urgent care clinic visit for a sore throat, performed on 15 April 2003, a month after separation, the CI reported taking no daily migraine medications and having only an occasional HA responding to rescue medication.

The Board directs attention to its rating recommendation based on the above evidence. The PEB and VA both adjudicated the migraine headache condition under VASRD Code 8100,

migraine, but at different rating levels. When rating headaches under the diagnostic code 8100 migraine headaches, VA guidance does not specifically define prostrating and therefore the clear English definition of prostrating is applicable. The standard dictionary definition of "prostration" is "utter physical exhaustion or helplessness". Under code 8100 a rating of 10% requires characteristic prostrating attacks averaging once in 2 months over a several month period. The next higher rating, 30%, requires characteristic prostrating attacks averaging once a month over a several month period. The highest rating, 50%, requires completely prostrating attacks productive of severe economic inadaptability. The VA rated at 30% citing the reported frequency of twice a week to once a month on the C&P exam. The PEB rated at 10% citing the marked improvement in the migraine condition after medication adjustment noted in the NARSUM addendum, performed on 5 December 2002, 3 months before separation. Both the VA and PEB agreed that a rating of 50% was not supported by the record in evidence. The Board debated whether the CI's headaches at the time of separation merited a 10% or a 30% disability rating. The Board opined that the migraine condition was frequent and severe at its inception, but responded with continued improvement with adjustment of medication. The Board unanimously agreed the condition had evolved to a level of stability in response to appropriate medical treatment and that at the time of separation the migraine attacks were occasional, not prostrating, and responded to standard treatment. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board concluded that the chronic headache condition more nearly approximated the 10% rating under the VASRD code 8100 at separation. All evidence considered, there was not reasonable doubt in the CI's favor supporting a change from the PEB's rating decision for the headache condition.

Contended PEB Conditions. The contended condition adjudicated as not unfitting by the PEB was the history of syncope and pre-syncope. The Board noted two episodes of syncope in February 2002 during the initial hospitalization. The record in evidence contains no further episodes of syncope. The Board concluded this syncope was an isolated occurrence and related to the initial headache condition prior to treatment. The Board noted several episodes of dizziness in the record but these were related to migraine headaches early in its medical course. This condition was reviewed by the action officer and considered by the Board. There was no evidence for concluding that it interfered with duty performance to a degree that could be argued as unfitting. After due deliberation in consideration of the preponderance of the evidence, the Board concluded that there was insufficient cause to recommend a change in the PEB fitness determination for the syncope 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 migraine headache condition and IAW VASRD §4.124, the Board unanimously recommends no change in the PEB adjudication. In the matter of the contended syncope and pre-syncope condition, the Board unanimously recommends no change from the PEB determination as not unfitting. There were no other conditions within the Board's scope of review for consideration.

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
Migraine Headaches	8100	10%
	COMBINED	10%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120213, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

President
Physical Disability Board of Review

MEMORANDUM FOR DIRECTOR, SECRETARY OF THE NAVY COUNCIL
OF REVIEW BOARDS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATIONS

Ref: (a) DoDI 6040.44
(b) CORB ltr dtd 26 Nov 12

In accordance with reference (a), I have reviewed the cases forwarded by reference (b), and, for the reasons provided in their forwarding memorandum, approve the recommendations of the PDBR that the following individual's records not be corrected to reflect a change in either characterization of separation or in the disability rating previously assigned by the Department of the Navy's Physical Evaluation Board:

- former USN
- former USMC
- former USMC
- former USMC
- former USMC

Assistant General Counsel
(Manpower & Reserve Affairs)