

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXX
CASE NUMBER: PD1200470
BOARD DATE: 20130219

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20080217

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an activated National Guard SPC/E-4 (13B10/Cannon Crewmember), medically separated for cervical spine strain and lumbosacral strain. Neck pain began after a motor vehicle accident in 2000 while low back pain (LBP) was not a consequence of trauma. Neither condition was associated with a surgical indication. The CI could not be adequately rehabilitated to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was issued a permanent U3L3H3 profile and referred for a Medical Evaluation Board (MEB). The MEB also identified and forwarded bilateral sensorineural hearing loss (BSNHL); transient hyperglycemia; breast hypertrophy, surgically treated, with right breast gynecomastia and postoperative pain; low testosterone with medical replacement; posttraumatic stress disorder (PTSD), chronic; major depressive disorder (MDD), single episode, mild; and mild traumatic brain injury (TBI), screened, asymptomatic; all identified in the rating chart below as meeting retention standards. The Physical Evaluation Board (PEB) adjudicated the cervical spine strain and lumbosacral strain conditions as unfitting, rated 0% and 0%, with application of the Veterans Affairs Schedule for Rating Disabilities (VASRD). The CI appealed the PEB's decision and met a Reconsideration Physical Evaluation Board (RPEB). The RPEB adjudicated the cervical spine strain and lumbosacral strain conditions as unfitting, rated 10% and 10% respectively. The remaining conditions were determined to meet retention standards and therefore not unfitting and not ratable. The CI made no appeals and elected to be transferred to the Reserve Retirement List in lieu of discharge with disability severance pay.

CI CONTENTION: "My rating should be changer (sic) because I was found unfit for duty by the Army. The VA and Social Security found me incompetent which made me unable to return to my civilian job. Memorandum for Record TO Col E--- October 4 2007 AEROMEDICAL EVACUATION RECORD FORM 3899"

SCOPE OF REVIEW: The Board's scope of review is defined in DoDI 6040.44, Enclosure 3, paragraph 5.e. (2). It is limited to those conditions determined by the PEB to be unfitting for continued military service and those conditions identified but not determined to be unfitting by the PEB when specifically requested by the CI. Ratings for unfitting conditions will be reviewed in all cases. The ratings for the unfitting cervical spine strain and lumbosacral strain conditions as requested for consideration meet the criteria prescribed in DoDI 6040.44 for Board purview, and are addressed below. Of the conditions determined to be not unfitting by the PEB, members judged that the BSNHL, transient hyperglycemia, right breast gynecomastia and postoperative pain, low testosterone with medical replacement, PTSD and MDD, and mild TBI conditions were specified sufficiently in the application to meet the DoDI 6040.44 scope requirements; and are accordingly addressed below. 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 Army Board for Correction of Military Records.

RATING COMPARISON:

Service RPEB – Dated 20071206			VA - (2 Mos. Post-Separation)			
Condition	Code	Rating	Condition	Code	Rating	Exam
Cervical Spine Strain	5237	10%	DDD, Cervical Spine, Mild	5237-5003	10%	20080425
Lumbosacral Strain	5299-5237	10%	DDD at L4-S1, Mild...	5237-5003	10%	20080425
Bilateral Sensorineural Hearing Loss	Not Unfitting		Bilateral Sensorineural Hearing Loss	6100	10%	20080425
Transient Hyperglycemia	Not Unfitting		Tinnitus, Bilateral	6260	10%	20080425
Breast Hypertrophy, Surgically Treated, with Right Breast Gynecomastia and Postoperative Pain	Not Unfitting		No VA Entry			
Low Testosterone with Medical Replacement	Not Unfitting		Gynecomastia, Bilaterally	7699-7628	0%	20080425
PTSD, Chronic	Not Unfitting		Erectile Dysfunction Associated with Hypogonadism	7522	0%	20080425
MDD, Single Episode, Mild	Not Unfitting		Hypogonadism	7914	0%	20080425
Mild TBI, Screened, Asymptomatic	Not Unfitting		PTSD	9434-9411	70%	20080425
No Additional MEB/PEB Entries			No VA Entry			
Combined: 20%			Mild TBI, with Reported Headaches	8045	10%	20080425
			Other x 3 (NSC)			20080425
			Combined: 80%			

VARD 20080815 (most proximate to Date of Separation)

ANALYSIS SUMMARY:

Cervical Spine Strain Condition. Although neck symptoms did not completely resolve after the motor vehicle accident in 2000, pain flared due to wear of gear in approximately 2006 while deployed. Magnetic resonance imaging (MRI) revealed multilevel degenerative disc disease, a small central disc protrusion at C4-5 and moderate left neuroforaminal narrowing at C6-7. The goniometric range-of-motion (ROM) evaluations in evidence which the Board weighed in arriving at its rating recommendation, with documentation of additional ratable criteria, are summarized in the chart below.

Cervical ROM in degrees	NARSUM ~ 5 Mo. Pre-Sep	VA C&P ~ 2 Mo. After Sep
Flexion 0-45 normal	45	45
Extension 0-45 normal	45	45
Combined 340 normal	340	300
Comments	+Painful motion	
4.71a Rating	10%	10%

At the orthopedic narrative summary (NARSUM) examination on 10 September 2007 (5 months prior to separation) the CI stated that his neck pain was “manageable” but that it prevented him from wearing gear or training. The CI denied symptoms of upper extremity radiculopathy. Examination revealed normal curvature, no tenderness, normal muscle tone and normal upper extremity neurologic findings. At the VA Compensation and Pension (C&P) evaluation on 25 April 2008 (2 months after separation) the CI stated that his neck pain began as a result of an IED blast in 2006. Examination showed a normal gait and spinal contour. There was no spasm, guarding or painful motion. Upper extremity strength reflexes and sensation was normal. The Board directs attention to its rating recommendation based on the above evidence. The PEB

assigned a 10% rating under the 5237 code (lumbosacral or cervical strain) while the VA's 10% rating was applied under the 5003 code (degenerative arthritis). The Board noted that there was no loss of motion and that the PEB's approach was justified by the application of §4.59 (Painful motion). There was no avenue to a rating higher than 10% under applicable spine codes. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication for the cervical spine strain condition.

Lumbosacral Strain Condition. The NARSUM notes that LBP began during pre-mobility exercises in 2006. Symptoms flared due to wearing gear and riding vehicles over rough terrain, and were sometimes associated with symptoms of right lower extremity radiculopathy. MRI revealed multi-level DDD and spondylitic changes with mild bilateral neuro-foraminal narrowing. An old anterior vertebral body compression fracture of T12 was identified. Electromyography studies (EMG) were negative for radiculopathy. The goniometric range-of-motion (ROM) evaluations in evidence which the Board weighed in arriving at its rating recommendation, with documentation of additional ratable criteria, are summarized in the chart below.

Thoracolumbar ROM in degrees	Pain Clinic ~7.5 Mos. Pre-Sep	PT ~7 Mos. Pre-Sep	VA C&P ~ 2 Mos. After-Sep
Flexion (90 Normal)	40	20 20 20 (20)	80
Ext (0-30)	15	10 11 10 (10)	30
R Lat Flex (0-30)	--	20 18 20 (20)	30
L Lat Flex 0-30)	--	14 18 15 (15)	30
R Rotation (0-30)	20	15 10 8 (10)	30
L Rotation (0-30)	20	10 10 8 (10)	30
Combined (240)	NA	85	230
Comment	+tenderness; +Rt SLR	See narrative	Radiographic degenerative changes
§4.71a Rating	20%	40%	10%

During ROM testing by physical therapy on 23 July 2007 (7 months prior to separation) "cogwheel rigidity" was present and ROM was difficult to assess due to rigid movements. There was no muscle spasm. Guarding was present which appeared to be responsible for an antalgic gait, but spinal contour was normal. Superficial tenderness, pain with axial loading, over-reaction, pain with shoulder and hip rotation, and non-anatomical tenderness were all present. Neurologic exam was normal and straight leg raise test (SLR) was normal. At the C&P exam, the CI reported constant, daily LBP that imposed no limitation to walking, but prevented running. He did not require an assistive device for ambulation. Pain sometimes radiated down his right leg. Examination revealed normal posture, gait and spinal curves. Muscle tone was normal. Lower extremity strength and reflexes were normal. There was no tenderness or loss of motion on repetition.

The Board directs attention to its rating recommendation based on the above evidence. The PEB assigned a 10% rating under an analogous 5237 code while the VA's 10% rating was applied under the 5003 code. A re-evaluation note in the service treatment record on 8 February 2008 (a week prior to separation) indicated that the examination evidence of non-physiologic pain was not consistent with the ROM in evidence, and therefore not supportive of a higher rating based on limitation of motion. In deliberating a rating recommendation based on the above evidence, the Board noted the significant difference in ROM measurements between the service exams and the VA exam. Due to the inconsistent examination findings on the service exams and the fact that the VA exam was more proximal to separation, the Board relied more heavily on the VA exam in its assignment of probative value. Board members agreed that this

exam did not support a rating higher than the PEB's 10%. The Board further deliberated if additional disability was justified for symptoms suggestive of right lower extremity radiculopathy. The Board concluded that normal muscle strength and a normal EMG did not support the presence of functional impairment with a direct impact on fitness, and therefore concludes that additional disability was not justified on this basis. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication for the lumbar spine strain condition.

Other Contended PEB Conditions. The Board's main charge is to assess the fairness of the PEB's determination that transient hyperglycemia, low testosterone, mild traumatic brain injury, PTSD and MDD, bilateral sensorineural hearing loss and breast hypertrophy with right breast postoperative pain were not unfitting. The Board's threshold for countering fitness determinations is higher than the VASRD §4.3 (Resolution of reasonable doubt) standard used for its rating recommendations, but remains adherent to the DoDI 6040.44 "fair and equitable" standard. The hyperglycemia, low testosterone, and mild TBI conditions were not profiled or implicated in the commander's statement and were not judged to fail retention standards.

Posttraumatic Stress Disorder and Major Depressive Disorder. The CI had no prior history of psychiatric illness, but after return from deployment in October 2006 he developed symptoms of depression and PTSD. He was treated with two psychotropic medications and also completed an outpatient post deployment group therapy process. A psychiatric NARSUM addendum concluded that he suffered from mild PTSD with depression which would cause no impairment in his MOS. The condition was profiled S2, was not judged to fail retention standards and was not implicated in the commander's statement.

Hearing Loss. A screening audiologic evaluation in October 2006 identified a bilateral mild to moderately severe high frequency hearing loss. The CI also complained of constant bilateral tinnitus in quiet environments. A Speech Recognition In Noise Test analysis recommended that he be retained in his current assignment with restrictions. He was provided hearing aids and was assigned an H3 profile that restricted noise exposure without use of hearing protection, and prohibited duties that required acute hearing (point, sentry, scout etc.). This condition was not judged to fail retention standards and was not implicated in the commander's statement.

Breast Hypertrophy Condition. The CI underwent a bilateral subcutaneous mastectomy for simple gynecomastia, left greater than right, in August 2006. Within 6 months he complained that breast growth had returned, especially on the right which was also associated with discomfort. At a NARSUM addendum exam on 7 August 2007 (6 months prior to separation) the CI noted that any touching or rubbing of clothing over the right breast caused pain. A profile was written to allow the use of protective padding when wearing body armor. At the VA exam the CI denied breast symptoms and examination findings were remarkable only for right sided enlargement. This condition was not judged to fail retention standards.

All the above conditions were reviewed by the action officer and considered by the Board. There was no performance based evidence from the record that any of these conditions significantly interfered with satisfactory duty performance. 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 any of the contended conditions and therefore, no additional disability ratings are recommended.

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 cervical spine strain condition and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication. In the matter of the lumbar spine strain condition and IAW VASRD §4.71a, the Board unanimously recommends no change in the PEB adjudication. In the matter of the contended transient hyperglycemia, low testosterone, mild TBI, PTSD and MDD, bilateral hearing loss and breast hypertrophy conditions, the Board unanimously recommends no change from the PEB determinations 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
Cervical Spine Strain	5237	10%
Lumbar Spine Strain	5299-5237	10%
	COMBINED	20%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120601, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans’ Affairs Treatment Record

XXXXXXXXXXXXXXXXXXXX, DAF
 Acting Director
 Physical Disability Board of Review

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation
for XXXXXXXXXXXXXXXXXXXX, AR20130003824 (PD201200470)

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

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Deputy Assistant Secretary
(Army Review Boards)