

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME:
CASE NUMBER: PD1200513
BOARD DATE: 20130115

BRANCH OF SERVICE: MARINE CORPS
SEPARATION DATE: 20020315

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty LCpl/E-3 (0621/Field Radio Operator), medically separated for facial neuralgia with migraine headaches. The CI sustained a blow to a previously injured, but, healed area of the right face. A chronic facial pain condition developed. This could not be adequately rehabilitated to meet the physical requirements of his Military Occupational Specialty or satisfy physical fitness standards. He was consequently issued a limitation of duty and referred for a Medical Evaluation Board (MEB). A facial neuralgia with migraine headaches condition was forwarded to the Physical Evaluation Board (PEB). In addition, essential hypertension condition was identified by the MEB and forwarded. The PEB adjudicated the facial neuralgia with migraine headaches condition as unfitting, rated 10%, with application of the Veterans Administration Schedule for Rating Disabilities (VASRD). The essential hypertension condition was determined to be not unfitting (Category III condition). The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: "Migraines have continued and in some cases worsen. Knees that were not rated continue to cause discomfort."(sic)

SCOPE OF REVIEW: The Board wishes to clarify that the scope of its review as defined in 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 unfitting facial neuralgia with migraine headaches condition is addressed below. The not unfitting hypertension condition was not contended by the CI and will not be discussed. The knee condition alluded to in the CI's contention was not included in the PEB process and is, therefore, outside the purview of the Board. 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 20020205			VA (2 Mo. Post-Separation) – Effective 20020316			
Condition	Code	Rating	Condition	Code	Rating	Exam
Facial Neuralgia with Migraine Headaches	8100	10%	Headaches with Facial Neuralgia	8100	30%	20020525
Essential Hypertension	Not Unfitting		No VA entry			
↓No Additional MEB/PEB Entries↓			Back Pain S/P Lipoma Removal	7804	10%	20020525
			Not Service Connected x 3			20020525
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 Department of Veterans Affairs (DVA) but not determined to be unfitting by the PEB. However, the DVA, 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.

Facial Neuralgia with Migraine Headaches. The CI sustained a fracture to the bones of the right lower face requiring placement of surgical plate for repair in 1998. After successful healing the area was asymptomatic and the CI joined the service in 1999. The CI sustained a direct blow to this area in February 2000 with development of persistent right facial pain. X-rays of the face demonstrated no new fractures or disruption of the prior surgical site. On neurology exam, 4 May 2000, the diagnosis of migraine type headaches possibly of facial nerve etiology (trigeminal neuralgia etiology), related to new facial trauma at an old fracture site was made. Neurologic exam was normal without evidence of facial nerve neuropathy. The CI was treated with neuropathy medications with unsustained improvement. He was examined by both neurosurgeons and maxillofacial surgeons, who agreed that surgical intervention, short of plate removal, a procedure with associated post operative sequelae, was not indicated. At the MEB narrative summary evaluation performed on 2 August 2001, 7 months prior to separation, the CI reported having two to four headaches a week but being able to perform his duties (office clerk) adequately, except when suffering a severe headache which required him to go home. He noted this to occur once or twice a month. On physical evaluation, the neurologic exam was normal. At the VA Compensation and Pension examination, 2 months after separation, the CI reported totally debilitating headaches 4 to 5 times a week each lasting 2 to 36 hours. Physical examination revealed slight tenderness over the right lower face without evidence of gross deformity or bony instability.

The Board directs attention to its rating recommendation based on the above evidence. The PEB and VA both adjudicated the facial pain condition under VASRD Code 8100, migraine, but at different rating levels, the PEB at 10% and the VA at 30%. Under code 8100 a rating of 10% requires characteristic prostrating attacks averaging one 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. When rating headaches under the diagnostic code 8100 migraine headaches, VA guidance uses the clear English definition of prostrating. The standard lexicon definition of "prostration" is "utter physical exhaustion or helplessness." The Board noted the statements in the non-medical assessment describing the CI as a hard working and respectful Soldier away from work 2 to 3 days a week for medical evaluation, treatment or recuperation. The Board further noted the JDET report of the CI away from work for severe 'prostrating' headaches 1 to 2 times a month over a 1-year period and opined that this constituted prostrating attacks. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board unanimously concluded that the facial pain/headache condition met the criteria for 30% rating at the time of separation. A higher rating of 50% was not supported by the record in evidence. The Board was unable to find any pathway to a higher rating for this condition under any applicable VASRD code including §4.123 or §4.124.

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 facial pain/headache condition, the Board unanimously recommends a disability rating of 30%, coded 8100, IAW VASRD §4.124. There were no other conditions within the Board's scope of review for consideration.

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.

UNFITTING CONDITION	VASRD CODE	RATING
Facial Neuralgia with Migraine Headaches	8100	30%
	COMBINED	30%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120604, w/atchs.
- Exhibit B. Service Treatment Record.
- Exhibit C. Department of Veterans Affairs Treatment Record.

XXXXXXXXXXXXXXXXXX
President
Physical Disability Board of Review

MEMORANDUM FOR DIRECTOR, COUNCIL OF REVIEW BOARDS

Subj: PHYSICAL DISABILITY BOARD OF REVIEW (PDBR) RECOMMENDATION
ICO XXXXXXXXXXXX FORMER USMC

Ref: (a) DoDI 6040.44
(b) PDBR ltr dtd 25 Jan 13

I have reviewed subject case pursuant to reference (a) and non-concur with the recommendation of the PDBR as set forth in reference (b). I found the disability rating awarded by the Physical Evaluation Board in February 2002, to have been supported by the evidence or record. Therefore, Mr. XXXXXXXXXXXX naval records will be not be corrected to reflect a change in either his disability rating or characterization of discharge.

XXXXXXXXXXXX
Principal Deputy
Assistant Secretary of the Navy
(Manpower & Reserve Affairs)