RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXX
CASE NUMBER: PD1200636
BOARD DATE: 20130111

BRANCH OF SERVICE: ARMY
DATE OF PLACEMENT ON TDRL: 19990414
DATE OF PERMANENT SEPARATION: 20030219

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (02C1O/Musician), medically separated for schizoaffective disorder. The condition first appeared in 1998 when he required hospitalization for suicidal ideation, and he could not be adequately rehabilitated to meet the physical requirements of his Military Occupational Specialty. He was issued a permanent S4 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded schizoaffective disorder, bipolar type, to the Physical Evaluation Board (PEB) as medically unacceptable IAW AR 40-501. The MEB forwarded no other conditions for PEB adjudication. The PEB adjudicated the schizoaffective disorder, bipolar type, condition as unfitting, rated 30%, and placed the CI on the Temporary Disability Retired List (TDRL). He was continued on TDRL with an interim reevaluation in 2000, and then underwent a final evaluation after approximately 4 years on TDRL. At that time the PEB adjudicated schizoaffective disorder as permanently unfitting, rated 10% with application of the Veterans Affairs Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: "Prior to entering the U.S. Army, I was a competent individual with no pre-existing mental illness. While in the Army, I developed a mental disorder known as Schizoaffective disorder *w/* a Bipolar type that rendered me unfit for duty. The Physical Evaluation Board recommended a disability rating of 30% as shown in the attached DA Form 199. Furthermore, Veteran's Affairs rated me at 30% with a possibility of 55% if my condition worsened. I was overly surprised to find out that the U.S. Army -- despite the recommendations from both the PEB and the VA -- decided to rate me at 10% instead. A rating at 10% doesn't even help me w/ my condition w/ regards to medical and financial help. My entire post-Army career has been a struggle for me every single day I wake up. I have to fight every fiber of my being to hide my mental oddities. I constantly have to endure the multiple anxiety attacks each day. My bipolar aspect of my disorder has impacted my attempt at putting myself through school. I would have failed if I did not have access to VA Mental Health professionals while under the Chapter 32 program. When my condition is at its worst, I need to make certain that nobody is around me, since I have bouts of hallucinations. Without the VA realizing the severity of my disability, I probably would have not received any help from the government. I still do not understand why I was not rated at 30%. I just don't understand."

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 ratings for unfitting conditions will be reviewed in all cases. The schizoaffective disorder, bipolar type condition requested for consideration meets the criteria prescribed in DoDI 6040.44 for Board purview, and is accordingly addressed below. Any condition 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.

TDRL RATING COMPARISON:

Service IPEB – Dated 20021219				VA – All Effective Date 19990415			
Condition	**Code**	**Rating**		**Condition**	**Code**	**Rating**	**Exam**
On TDRL – 19990414		**TDRL**	**Sep.**				
Schizoaffective Disorder	9211	30%	10%	Schizoaffective Disorder	9211*	30%	20020105
No Additional MEB/PEB Entries				0% x 0/Not Service-Connected x 0			
Combined: 10%				**Combined: 30%**			

*VA decision 20020128 changed code from 9435 (mood disorder) without changing rating

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ANALYSIS SUMMARY: The CI's opinion that he deserved the same 30% rating at the time of permanent separation as he had at the time of placement on TDRL was considered in the Board's deliberations. The Board takes the position that subjective improvement or worsening during the period of TDRL should not influence its coding and rating recommendation at the time of permanent separation. The Board's relevant recommendations are assigned in assessment of the permanent separation and rating determination, and the TDRL rating assignment is not considered a benchmark. It is recognized, in fact, that PEBs across the services sometimes apply an overly generous initial rating in order to meet the DoD requirement of 30% disability for placement on TDRL. This is in the member's best interest at the time and does not mean that a final lower rating is unfair, even if perceived as incongruent with subjective severity from one rating to the next. Thus the sole basis for the Board's recommendation is the optimal VASRD rating for disability at the time the CI is permanently separated.

Schizoaffective Disorder Condition. The Board first addressed if the tenants of §4.129 (Mental disorders due to traumatic stress) were applicable. The Board noted that there was no "highly stressful event" for which provisions of §4.129 would apply, and therefore concludes that its application is not appropriate to this case. Consequently, the Board need not apply a 50% minimum TDRL rating in this case. At the time of entry onto TDRL, the CI's symptoms could best be described as moderate. An inpatient psychiatric discharge summary on 9 December 1998 (4 months pre-TDRL) reported a positive response to a 2 month hospitalization. Symptoms that led to the need for inpatient evaluation and treatment included significant paranoid delusions, auditory hallucinations and mood lability. Treatment with two psychotropic medications resulted in clear symptomatic improvement. Psychological testing after stabilization on medication suggested a significant degree of depression and emotional distress, and disorganized thought processes. A trial off of medication resulted in return of psychotic symptoms within 72 hours. Because the CI was concerned the treatment team was trying to kill him, it took several days until he agreed to re-start medication. Once medication was re-instituted, resolution of affective instability and paranoia soon followed. He was able to achieve several community positions within the psychiatric treatment program, including secretary and Sergeant at Arms. Mental status examination (MSE) performed at the time of hospital discharge showed normal orientation and appropriate conversation and behavior. Thought processes were linear, logical and goal-directed, but sometimes vague. He experienced occasional anxiety and showed little insight into his illness. There was no evidence of suicidal or homicidal ideation. Affect was euthymic, though restricted, and reactive and congruent with mood. The Global Assessment of Functioning (GAF) was 55, connoting

moderate symptoms or impairment. Impairment for social and industrial adaptability was considered definite. It was recommended that the CI be followed in a partial hospitalization program after discharge. At an interim TDRL re-evaluation narrative summary (NARSUM) performed on 27 November 2000 (19 months after entry on to TDRL) the CI reported that he discontinued medications soon after his hospital discharge and lived for a year in a van. He unsuccessfully attempted junior college courses and was often unaware that his TDRL money was being deposited into his account. He briefly saw a civilian psychiatrist in January 2000, but discontinued the prescribed psychotropic medication after 2 months. He returned to his parent's home to live. He re-attempted college, and since January 2000 claimed to be achieving A's and B's as a full-time student in a physics engineering program. He also reported that he was the president of Amnesty International. MSE revealed adequate hygiene but somewhat bizarre clothing. There was no psychomotor agitation or retardation. Speech was normal and he was fully oriented, although he did not appear to understand that he was on TDRL status. Affect was anxious. Thought processes were normal, but thought content showed mild paranoid ideations. He was a poor historian, but there was no evidence of hallucinations or of suicidal or homicidal ideations. Memory was intact. Insight was fair and judgment non-impaired. A GAF was not assigned. The examiner's assessment was chronic mental health condition that causes marked impairment of social and occupational functioning. Non-compliance with treatment in individuals with this illness was noted to be a frequent occurrence. Completion of a college degree and sustaining employment were considered unlikely, and continuation on TDRL was not recommended. A VA Compensation and Pension on 5 January 2002 (13 months prior to permanent separation) noted that the previous diagnosis rendered by the VA in December 1999 was mood disorder, not otherwise specified. The CI indicated that he had not been seen for treatment since he discontinued medications in March 2000, that he continued to avoid because he did not trust them. He described pervasive paranoia, with significant suspiciousness and mistrust that impaired him socially and occupationally. Relationships with girlfriends were ended due to his suspiciousness. He also reported intermittent bouts of depression and mania or hypomania. His paranoia made him unable to maintain jobs, although he was still studying in college and had plans to transfer to Georgia Tech. He denied use of marijuana in over a year, but included in a list of previous diagnoses was possible psychosis secondary to cannabis. MSE noted a display of significant suspiciousness and paranoia. He was fully oriented. Speech was coherent, mood "a little bit depressed" and affect full and appropriate. Thought processes were goal directed with no flight of ideas or loosening of associations. There were no apparent suicidal or homicidal ideations, and no hallucinations. Although concentration was intact, insight was poor and judgment impaired. Assessment was schizoaffective disorder, bipolar type; GAF was 55. When offered, the CI declined treatment. The examiner stated: "His ability to seek treatment is also impaired due to the paranoia which has pushed him to discontinue medications and avoid treatment." He opined that decompensation at some future point was likely and would require hospitalization. At the final TDRL re-evaluation exam on 27 May 2002 (approximately 9 months prior to separation), the CI reported that he had completed the course of study in college and was accepted to the Georgia Institute of Technology. He was still not receiving any psychiatric treatment or taking any medication. He endorsed ongoing anxiety, confusion and paranoid ideation. MSE revealed adequate hygiene but he displayed some bizarre and reserved behavior and mild psychomotor agitation. Speech and orientation were normal. He remained confused about his administrative military status. He remained anxious and guarded throughout the interview. Paranoia appeared to be increased from the previous TDRL exam, and he was a very poor and guarded historian. He denied hallucinations and suicidal or homicidal ideations. Memory was intact, concentration adequate, but insight and judgment appeared poor. A GAF was not assigned. The assessment was schizoaffective disorder, bipolar type, with marked impairment in social and occupational functioning. Employment and social interactions were

made difficult by frequent and noticeable paranoia. In an addendum dated 18 October 2002 and signed by the CI, the examining psychiatrist responded to questions from the PEB president, indicating that the CI's non-compliance with treatment could not be considered a direct product of his psychiatric illness, that the CI had been advised of the need for treatment and that he understood the need for treatment.

The Board directs attention to its rating recommendation based on the above evidence. At the time of entry on TDRL, the PEB and the VA assigned a 30% rating. As mentioned above the VA initially rated under the 9435 code (mood disorder), but subsequently changed it to 9211 (schizoaffective disorder). The Board debated the rating at the time of entry on the TDRL, and noted the substantial improvement evident with appropriate treatment. All members agreed that the §4.130 criteria for a rating higher than 30% were not met at the time of placement on TDRL. With regard to permanent rating at the time of removal from the TDRL, Board members debated the history of clearly improved symptoms and functioning in a treated state. A clear indication of the stability of his symptoms under treatment was provided by the pre-TDRL NARSUM examiner, who reported resolution of paranoia and stabilization of mood symptoms when medications were taken. Two examiners indicated that refusing treatment is a common manifestation of the paranoia and suspiciousness inherent in psychotic disorders, and that the ability to seek treatment is itself impaired by the underlying illness. The final TDRL NARSUM examiner offered a different opinion in this particular case, stating that the CI's unwillingness to accept treatment was not due to his illness. The Board considered if the CI's signature on the examiner's statement to the PEB attesting that he understood the need for treatment was evidence that this examiner's opinion was correct. Board members debated if a rating higher than the PEB's 10% at the time of removal from the TDRL was warranted. This degree of impairment is described by "Occupational and social impairment due to mild or transient symptoms which decrease work efficiency and ability to perform occupational tasks only during periods of significant stress, or; symptoms controlled by continuous medication." While the symptoms of impaired judgment and difficulty in establishing and maintaining effective work and social relationships could suggest a 50% evaluation "(Occupational and social impairment with reduced reliability and productivity…)," most of the elements of this rating, such as flattened affect, circumstantial speech, frequent panic attacks and memory impairment, were absent. Board members agreed that impairment consistent with a 30% evaluation "(Occupational and social impairment with occasional decrease in work efficiency, and intermittent periods of inability to perform occupational tasks)" was suggested by symptoms such as depressed mood, anxiety, suspiciousness and paranoia. In deliberating the final rating however, the Board considered that the CI's occupation was a full time student, and that he was performing at a very high academic level in a challenging field. The degree of impairment that would still allow this level of success was debated at length. Ultimately, the Board concluded that the clinical picture was most accurately depicted by "occupational and social impairment due to mild or transient symptoms which decrease work efficiency and ability to perform occupational tasks only during periods of significant stress." After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), the Board recommends a permanent disability rating of 10% for the schizoaffective disorder 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 schizoaffective disorder condition and IAW VASRD §4.130, the Board unanimously recommends no change in the PEB adjudication. In the matter of the schizoaffective disorder condition, the Board unanimously recommends no change in the PEB adjudication. 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	
		TDRL	PERMANENT
Schizoaffective Disorder	9211	30%	10%
	COMBINED	**30%**	**10%**

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20120605, w/atchs
Exhibit B. Service Treatment Record
Exhibit C. Department of Veterans' Affairs Treatment Record

xxxxxxxxxxxxxxxxxxx, DAF
Director
Physical Disability Board of Review

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation for xxxxxxxxxxxxxxxxxxxx, AR20130002265 (PD201200636)

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)