

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX
CASE NUMBER: PD1200794
BOARD DATE: 20130109

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20031123

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was a National Guard SGT/E-5 (95B20/Military Police), medically separated for major depressive disorder (MDD). He was issued a permanent S3 profile and referred for a Medical Evaluation Board (MEB). The MEB forwarded no other conditions for Physical Evaluation Board (PEB) adjudication. The PEB adjudicated the MDD condition as 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: The CI elaborated no specific contention in his application.

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. 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 IPEB – Dated 20031029			VA (No C&P until 2010) – All Effective Date 20030303			
Condition	Code	Rating	Condition	Code	Rating	Exam
Major Depressive Disorder	9434	10%	NO VA ENTRY*			
↓No Additional MEB/PEB Entries↓			0% X 3 / Not Service-Connected x 3			No C&P
Combined: 10%			Combined: 0%			

*CI filed claim for depression 30 December 2003. VARD 20050119 denied service connection based on lack of requested documentation. Later VARDs make no further reference to claim for depression.

ANALYSIS SUMMARY:

Major Depressive Disorder Condition. The CI was called to active duty beginning 10 February 2003 however he was hospitalized at a civilian hospital from 13 to 16 February 2003, requiring medication management and psychotherapy for depression with suicidal ideation due to multiple stressors including marital, occupational and financial problems. His unit initially classified him as Absent Without Official Leave at this time apparently because he had not reported (CI stated he had notified his unit). Following release from the hospital the CI was referred to behavioral health for continued care. The CI reported a 10 month history of increasingly severe depression and anxiety. This was precipitated by severe marital and financial problems, exacerbated by conflict with his unit, and culminated in extreme suicidal

ideation with a plan to kill himself; this led to the aforementioned psychiatric hospitalization on 13 February 2003. At the 12 March 2003 military behavioral health evaluation he was determined to be non-deployable and referred for MEB. On 1 April 2003, he was assigned to the medical hold company. The psychiatry MEB narrative summary (NARSUM) dated 19 August 2003, 3 months prior to separation, recounted the clinical history but provided no detail regarding occupational functioning after treatment. On mental status examination, the CI presented well-groomed and neatly dressed in proper uniform. He was pleasant and cooperative with the interviewer and displayed essentially normal behavior except for occasional poor eye contact, slow speech, slight hypokinesia, and episodic tearfulness. The CI described his mood as "really depressed and anxious;" he was experiencing ruminations about his financial difficulties and anticipated problems with his unit. Affect was slightly constricted, appropriate to content and moderately reactive. Thought processes were normal without evidence of perceptual distortions or auditory or visual hallucinations, or other abnormal content. The CI denied current suicidal ideations or homicidal ideations. Recall, short-term memory, and remote memory were intact, fund of knowledge and abstracting were also good. Judgment and insight were fair. Despite previously witnessing traumatic events during numerous deployments as a military police officer while on active duty (January 1993 to December 2001), he stated the thought of deploying again did not bother him, and he denied symptoms of posttraumatic stress disorder (PTSD). The diagnosis was MDD, moderately severe, not in remission despite medication and psychotherapy. The examiner estimated the degree of impairment for civilian social and industrial adaptability as definite, and the Global Assessment of Functioning at 55 (moderate symptoms). A S3 Profile was assigned 2 September 2003 (satisfactory remission from an acute psychotic or neurotic episode that permits utilization under specific conditions; assignment when outpatient psychiatric treatment is available or certain duties can be avoided). The commander's statement of 15 September 2003 recommended the CI be discharged because his medications for MDD rendered him unable to be alert and responsive at all times in his MOS of 95B/Military Police. The PEB, 29 October 2003, 2 months after the psychiatry NARSUM, rated the condition 10% citing review of the objective medical evidence of record indicated the CI's impairment for social and industrial adaptability was more accurately described as mild, not definite. There was no mental health VA Compensation and Pension (C&P) examination proximate to separation. The CI filed a claim with the VA for depression on 30 December 2003, a month after separation; however the VA denied service-connection due to not receiving requested documentation. VA rating documents through May 2010 fall silent with regard to claims for depression. The first mental health C&P examination, 3 November 2011, 8 years after separation, notes the last mental health treatment the CI received was in 2003 and that since that time he had not sought treatment for sleep problems or mood problems. The examination indicated that following separation from active duty at the end of November 2003, the CI returned to his civilian job as a police officer at a military base (with security clearance). He divorced his wife in 2004 and remarried in 2004, "marriage is great."

The Board directs attention to its rating recommendation based on the above evidence. The Board considered the provisions of §4.129 and concluded they do not to apply in this case. PTSD was considered by the examining psychiatrist and specifically excluded as a diagnosis and symptoms of depression were due to marital and financial stressors during the 10 months prior to call to active duty for deployment. The NARSUM and the commander's letter provide no clear evidence of occupational functioning at the time of separation. The Board noted the subjective symptoms recorded at the time of the NARSUM supported consideration of the 30% rating. The PEB cited review of objective evidence of the record in its determination that the social and industrial adaptability was more accurately described as mild. The Board did not have any documentation other than the NARSUM of August 2003 2 months before the time of

the PEB. The next available evidence to assess the severity of the condition was the 2011 C&P examination noted above. That examination indicated return to civilian employment without difficulty and a successful marriage without treatment more nearly approximating a zero percent rating. The Board also noted the depressive symptoms began prior to recall to active duty and that military service did not aggravate the condition. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (Resolution of reasonable doubt), The Board recommends no change from the PEB's adjudication for the MDD 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. In the matter of the MDD and IAW VASRD §4.130, 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
Major Depressive Disorder	9434	10%
	COMBINED	10%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120406, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXXXXXXXXXXXX, DAF
Director
Physical Disability Board of Review

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation
for XXXXXXXXXXXX, AR20130002282 (PD201200794)

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

XXXXXXXXXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)