

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XX
CASE NUMBER: PD1200833
BOARD DATE: 20130117

BRANCH OF SERVICE: MARINE CORPS
SEPARATION DATE: 20021130

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SGT/E-5 (0311/Rifleman), medically separated for profound bilateral hearing loss in the high frequency ranges. The CI was issued permanent bilateral hearing aids, placed on limited duty (LIMDU) and referred for a Medical Evaluation Board (MEB). Noise-induced hearing loss was forwarded to the Physical Evaluation Board (PEB) IAW SECNAVINST 1850.4E. No other conditions appeared on the MEB's submission. The PEB adjudicated the bilateral sensorineural hearing loss (SNHL) condition as unfitting, rated 0% with application of the Veterans Affairs Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 0% disability rating.

CI CONTENTION: "Have to have equipt. to work with for hearg (sic). Currently not able to perform certain tasks due to ovscultation (sic) of lungs. Counseling because of anger management, cant taste sour food where tongue bit off. Cannot sleep, take meds for this. 6th job since discharge due to anger/aggressive nature. Lightheaded, dizzy feeling occasionally since fall at Parris Island repel tower. L arm will not go overhead when trapzius muscle tightness. It is a knot easily felt. Permanent scare (sic) over tongue where re-attached."

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 other requested conditions are not within the Board's purview. 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 20020919			VA (At Separation) – All Effective Date 20021201			
Condition	Code	Rating	Condition	Code	Rating	Exam
Profound Bilateral Hearing Loss	6100	0%	Hearing Loss, Bilateral	6100	0%	STR*
↓No Additional MEB/PEB Entries↓			Tinnitus	6260	10%	STR*
			0% X 1 / Not Service-Connected x 5			
Combined: 0%			Combined: 10%			

*The CI failed to appear for his scheduled VA Compensation and Pension Exam.

ANALYSIS SUMMARY: The Board acknowledges the CI's contention suggesting that ratings should have been conferred for other conditions documented at the time of separation and for conditions not diagnosed while in the service. While the Disability Evaluation System (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 Department of Veterans Affairs (DVA), however, is

empowered to compensate service-connected conditions and periodically re-evaluate them for the purpose of adjusting the Veteran's disability rating should the degree of impairment vary over time.

Sensorineural Hearing Loss. The CI had some hearing loss prior to enlistment which worsened during his military career. He had a full evaluation by audiometry, ear nose and throat, and was diagnosed with mild to severe bilateral SNHL. He was advised not to work in a noisy environment and to use permanent bilateral hearing aids. He tried unsuccessfully to change his Military Occupational Specialty but was referred to a MEB. The non-medical assessment corroborated his hearing condition and further recommended placement on permanent LIMDU if found unfit. The MEB physical exam demonstrated the wearing of bilateral hearing aids and there was no trouble hearing a normal conversation. There CI failed to report for a scheduled VA examination. There was one audio logical evaluation, including pure tone audiograms, proximate to separation, which the Board weighed in arriving at its rating recommendation. This exam is summarized in the chart below.

Audiometric Threshold (Hz) →	500	1000	2000	3000	4000	6000	See next chart
MEB Audio ~5 Mos. Pre-Sep (20020412)							
Right	10	15	30	65	70	70	
Left	10	15	40	85	85	90	

HEARING	EXAM	MEB ~5 Mo. Pre Sep
LEFT EAR	Average Hearing Loss	59 dB
	Speech Discrimination	92%
	Table VI / VIa	II
RIGHT EAR	Average Hearing Loss	45 dB
	Speech Discrimination	88%
	Table VI / VIa	I
§4.85 RATING	Table VII	0%

(Average hearing loss is the sum of pure tone thresholds at 1000, 2000, 3000, and 4000 Hz divided by four)

The Board directs attention to its rating recommendation based on the above evidence. The VASRD §4.85 rating schedule for hearing impairment is completely objective and derived from audiometric testing. It is based on average pure tone threshold across the hearing ranges, and accommodates for measured speech discrimination. The charted result of the audiometric evidence in this case yields an unequivocal 0% rating. The Board acknowledges the VA transcribed higher numeric values for the 3000 Hz and 4000 Hz thresholds from the service record but notes even with use of these higher numbers the rating did not meet criteria above a 0% rating. 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 bilateral hearing loss 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 bilateral hearing loss condition and IAW VASRD §4.85, 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
Profound Bilateral Hearing Loss	6100	0%
	COMBINED	0%

The following documentary evidence was considered:

- Exhibit A. DD Form 294, dated 20120606, w/atchs
- Exhibit B. Service Treatment Record
- Exhibit C. Department of Veterans' Affairs Treatment Record

xx
Director
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 21 Feb 13

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

xxxx
Assistant General Counsel
(Manpower & Reserve Affairs)