RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXX
CASE NUMBER: PD1201136
BOARD DATE: 20130130

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20041223

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (63A10/Abrams Tank System Maintainer) medically separated for chronic daily headaches. In July 2000, the CI was diagnosed with a mild concussion after suffering a closed head injury. Despite symptomatic treatment, he developed chronic daily headaches that could not be adequately treated to meet the physical requirements of his Military Occupational Specialty. He was issued a permanent P3U2 profile and referred for a Medical Evaluation Board (MEB). The MEB identified post-traumatic headaches and syncope conditions as "unacceptable" and forwarded them to the Physical Evaluation Board (PEB). The PEB adjudicated the chronic daily headaches and occasional syncopal episodes as unfitting and rated 10% with likely application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD). The CI made no appeals and he was medically separated with a 10% disability rating.

CI CONTENTION: "I was given a disability of 10%. I am not satisfied with the percentage that I was given. At the time my unit was being deployed and it was suggested that I take the 10% because it was going to take longer for them to process me out if not."

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 unfitting chronic daily headaches and brief syncopal episode conditions meet the criteria prescribed in DoDI 6040.44 for Board purview and are 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 service Board for Correction of Military Records.

RATING COMPARISON:

Service IPEB – Dated 20041208			VA (Service Treatment Records (STR)) – All Effective Date 20041224			
Condition	**Code**	**Rating**	**Condition**	**Code**	**Rating**	**Exam**
Chronic Headaches and Syncopal Episodes	8045-9304	10%	Post Traumatic Headaches and Syncope	8045-9304	0%**	STR*
↓No Additional MEB/PEB Entries↓			0% x2**			
Combined: 10%			**Combined: 0%**			

*Service Treatment Records(STRs) used for 8045-9304 as CI failed to report for three separate neurologic disorders C&P examination appointments. **Included in the total zero percent ratings.

ANALYSIS SUMMARY: The Board acknowledges the CI's assertions that "At the time my unit was being deployed and it was suggested that I take the 10% because it was going to take longer for them to process me out if not." It is noted for the record that the Board has neither the jurisdiction nor the authority to scrutinize or render opinions in reference to asserted service improprieties in the disposition of a case. 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. It must also judge the fairness of PEB fitness adjudications based on the fitness consequences of conditions, as they existed at the time of separation.

Chronic Daily Headaches Condition. At the MEB exam accomplished 3 months prior to separation, the CI reported that he still suffered from blackouts and severe headaches since 2002. He also noted that in 2000, he "slammed head into Humvee bumper while fixing brakes" and "mild concussion due to head trauma." The MEB physical exam noted, "Romberg's Negative and balance tests within normal limits but has blackouts per service member."

The narrative summary (NARSUM) prepared 2 months prior to separation noted that the CI was in his usual state of good health until July 2000 when he struck his head against a metal bumper and experienced a period of unconsciousness for about a minute or two. Upon awakening, he complained of a severe headache for which he was seen in the emergency room. A CT scan was performed at that time, and revealed no significant findings. He was diagnosed as having a mild concussion and was treated symptomatically. Since that event however, he continued to have severe headaches almost daily. The headaches were made worse by any kind of light or noise. This combination of headache plus light or noise was often followed by a period of loss of consciousness. These episodes were witnessed and the CI had no tonic-clonic movements, he appeared as if "asleep." These episodes of unconsciousness come on abruptly and without warning. They occurred while driving a car. In July 2004, he was seen by a civilian neurologist who felt that the CI's headaches were post-traumatic. An electroencephalogram (EEG) was performed and was interpreted as normal. Magnetic resonance imaging (MRI) exam, performed in July 2004, revealed a Chiari 1 malformation, a common type of brain abnormality that is often asymptomatic. Because of this finding, the neurologist recommended consultation at a major university epilepsy clinic. The CI was seen at this clinic and it was recommended that he have a video EEG performed but this was never accomplished. Significant past medical history was that the CI had a left testicular cancer removed in January 2003 with a diagnosis of teratocarcinoma of the testes. He had chemotherapy following the surgery and had no evidence of recurrence and his tumor markers had remained normal. The NARSUM noted that several officers in his chain of command documented that the CI was incapable of performing his required duties because of his condition, presumably the headache condition. Nevertheless, the service treatment record (STR) did not provide evidence of other officers witnessing the CI being incapable of performing his required duties because on his condition. The commander's statement did not mentioned the CI's headaches or the CI having any frequencies of unconsciousness nor was the CI profiled for unconsciousness. The diagnosis was post-traumatic headaches and syncope. The recommendation was that, due to the CI's severe unrelenting and almost daily headaches, some of which were associated with unpredictable episodes of syncope, these events clearly interfered with performance of his military responsibilities and he did not meet retention criteria for the headaches and syncope.

In addition to the above data, the STR documents a "convulsive" syncopal episode after micturition while the CI was hospitalized for chemotherapy treatment in February 2003. During that hospitalization, he was started on an anti-seizure medication that was promptly discontinued after evaluation by a neurologist resulted in that episode being called convulsive

syncope. A brain MRI and a cardiac echocardiogram were performed during that hospital admission and were normal. Also documented was the frequency of the CI's syncopal episodes as 3-4 times per week, usually after standing up. The headaches began after the CI's concussion and were accompanied by blurry vision and pain over the right side of his head. He described the pain as close to the vertex of the skull on the right posterior part of the head. The pain would be very sharp at times and somewhat disabling for him. He had no nausea but did have a history of photophobia and phonophobia. He had to go to a dark room to relax during the time of the headache. The pain could last for about 3 to 4 hours. He also appeared to have muscle tension headaches on a daily basis. A neurological disorder VA Compensation and Pension (C&P) exam for the chronic headache condition was not performed. The CI failed to show up for three different appointments to accomplish that examination. Lastly, NARSUM noted that "the last blackout was four to five weeks ago" and on the most recent Report of Medical Assessment, the CI didn't report any medical concerns or problem associated with having headaches.

The Board directs attention to its rating recommendation based on the above evidence. The PEB applied the VASRD code of 8045-9304 for the chronic daily headaches with occasional syncopal episodes condition and rated it 10%. This coding and rating scheme was compliant with VASRD §4.124a Schedule of ratings—neurological conditions and convulsive disorders guidance when applying VASRD code 8045, (Brain disease due to trauma). This guidance states the following, "Purely subjective complaints such as headache, dizziness, insomnia, etc., recognized as symptomatic of brain trauma, will be rated 10 percent and no more under diagnostic code 9304. This 10 percent rating will not be combined with any other rating for a disability due to brain trauma. Ratings in excess of 10 percent for brain disease due to trauma under diagnostic code 9304 are not assignable in the absence of a diagnosis of multi-infarct dementia associated with brain trauma." The VA also applied the same coding scheme but assigned a non-compensable evaluation based symptoms that were not severe enough either to interfere with occupational and social functioning or to require continuous medication. The VA received no data or other medical records showing treatment for this condition since the CI's discharge from service. The CI failed to show for three neurologic disorder C&P examination appointments and there is no C&P examination from which additional rating data can be gathered. Therefore, the NARSUM and the STRs contain the only probative documentation useful for rating purposes at the time of separation. The Board discussed and considered an alternative coding and rating option utilizing VASRD code 8100, migraine, for the CI's recurrent headache condition. This code relies on the frequency and severity of the headaches to arrive at the proper disability evaluation. During deliberations, the Board searched the combined primary file and all STRs for corroborating evidence to reasonably apply and rate the headaches using VASRD code 8100. This search yielded no objective evidence of medication use or provider visits for management of the headache condition on a routine or urgent basis. The Board also noted contradictions between historical information presented by the CI and the information documented in the STRs. These significant inconsistencies, along with the lack of additional VA evidence, gave the Board no room to recommend a change in the PEB's adjudication. At the time of separation, the CI had purely subjective complaints of headaches after a closed head injury with occasional syncopal episodes of unknown cause and no evidence for multi-infarct dementia. This constellation of complaints and evidence requires a 10% evaluation IAW VASRD §4.124a as applied by the PEB. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board concluded that there was insufficient cause to recommend a change in the PEB adjudication for the chronic daily headaches and occasional syncopal episodes 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 chronic daily headaches and occasional syncopal episodes condition and IAW VASRD §4.124a, the Board, on a vote of 2:1, recommends no change in the PEB adjudication. The single voter of dissent, who voted for VASRD code 8100 rated at 30%, elected not to submit a minority opinion. 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
Chronic Daily Headaches and Occasional Syncopal Episodes Condition	8045-9304	10%
	COMBINED	**10%**

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20120712, w/atchs
Exhibit B. Service Treatment Record
Exhibit C. Department of Veterans' Affairs Treatment Record

xxxxxxxxxxxxxxxxxxxxxx, DAF
Acting Director
Physical Disability Board of Review

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation for XXXXXXXXXXXXXXXX, AR20130002996 (PD201201136)

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)