

RECORD OF PROCEEDINGS
PHYSICAL DISABILITY BOARD OF REVIEW

NAME: XXXXXXXXXXXXXXXX
CASE NUMBER: PD1200915
BOARD DATE: 20121206

BRANCH OF SERVICE: ARMY
SEPARATION DATE: 20020709

SUMMARY OF CASE: Data extracted from the available evidence of record reflects that this covered individual (CI) was an active duty SPC/E-4 (92R/Parachute Rigger), medically separated for chronic mid and lower back pain with degenerative disc disease thoracic and lumbar spines. Chronic mid and lower back pain conditions could not be adequately rehabilitated by conservative medical management. The CI did not improve adequately with treatment to meet the physical requirements of his Military Occupational Specialty (MOS) or satisfy physical fitness standards. He was issued a permanent L3 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 chronic mid and lower back pain conditions as unfitting, rated 10%, with application of the Veteran's Affairs Schedule for Rating Disabilities (VASRD). The CI made no appeals, and was medically separated with a 10% disability rating.

CI CONTENTION: "At least 20% for being a paratrooper, right off the bat. Knees, back etc."

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 20020501			VA (7 Yrs. Post-Separation) – All Effective Date 20091228			
Condition	Code	Rating	Condition	Code	Rating	Exam
Chronic Mid and Low Back Pain with Degenerative Disc Disease Thoracic and Lumbar Spines	5299-5295	10%	Degenerative Disc Disease T9-T10 and L3-L5 and Degenerative Joint Disease, T12-L5	5237	10%	20100507
↓ No Additional MEB/PEB Entries ↓			Not Service-Connected x 1			
Combined: 10%			Combined: 10%			

ANALYSIS SUMMARY:

Chronic Mid and Lower Back Pain Condition. The CI had with a history of mid and lower back pain after jumps and ruck marches, which usually resolved within hours. In March 2000, the CI reported increased duration and severity of pain with numbness, tingling, and weakness in the left arm. Chest X-ray at the time revealed decreased vertebral body height at the T9 and T10 levels. Magnetic resonance imaging (MRI) performed in October 2000 revealed moderate kyphosis of the thoracic spine with endplate narrowing and mild anterior vertebral body

wedging of the lower thoracic spine. The CI was given a rule-out diagnosis of Scheuermann's disease and underwent physical therapy until August 2001 without improvement. September 2001 the CI was placed on a permanent L3 profile with limitations of lifting up to 30 pounds, marching up to 4 miles, APFT push-up, swim or bicycle, and no prolonged standing greater the 20 minutes. An MEB was initiated. The goniometric range-of-motion (ROM) evaluations in evidence which the Board weighed in arriving at its rating recommendation, were documented by physical therapy 9 months pre-separation as forward flexion 90 degrees, extension 10 forward flexion 90 degrees, extension 10 degrees, right/left lateral flexion 20 degrees, and right/left rotation 40 degrees. At the MEB exam, 4 months prior to separation, the examiner indicated an orthopedic consult was requested to determine if the CI's back pain was related to a pre-service condition (Scheuerman's disease) or post-traumatic compression fractures secondary to service MOS. The orthopedic evaluation, 5 months prior to separation, determined that the CI did not have Scheuermann's disease. The orthopedist indicated "Based on the absence of symptoms during adolescence in his first five years of military service and the absence of mention of abnormalities of the thoracic spine in the 7 Jun 97 X-ray, Dr. S. feels (the CI) does not have Scheuermann's disease. He feels the correct diagnoses are degenerative disc disease of the lower thoracic and upper lumbar spine causing mid and low back pain." The CI reported worsening pain in the thoracic and lumbar back rated an 8/10. He reported that the thoracic pain was worse than the lumbar. The mid and lower back pain was made worse with sitting greater than 15-20 minutes. The MEB physical exam noted the physical therapy range-of-motion (ROMs). There was mild kyphosis in the mid thoracic spine and tenderness over the spine from the T3-4 level to the sacral area, mild paraspinous tenderness, and "pressure-type pain associated with axial compression." MRI of the thoracic and lumbar spine in October 2001 demonstrated anterior wedging of T8, 9, 10, 11, and L1 with anterior osteophytes. It also noted kyphosis and loss of height of L1 with evidence of degenerative changes at T12-L1. At the VA Compensation and Pension (C&P) exam, 6 years after separation, the CI reported worsening mid and lower back pain with numbness in the legs to the feet after swimming and intermittent left foot numbness lasting 2 minutes. The CI was not taking pain medication despite the increasing pain. The C&P physical exam noted no pain with motion, tenderness, spasm, or weakness. The muscle strength was 5/5. The neurologic examination was normal. ROM decreased with repetitive motion: forward flexion decreased by 10 degrees (80 degrees-70 degrees), right/left lateral flexion decreased by 5 degrees (20 degrees-15 degrees), and combined ROM decreased from 190 degrees-170 degrees. May 2010 C&P X-rays demonstrated "mild multilevel degenerative disease of the thoracic spine."

The Board directs attention to its rating recommendation based on the above evidence. The PEB adjudicated the chronic mid and lower back pain conditions as unfitting, rated at 10%, and coded 5295 for characteristic pain on motion. The 2001 Veterans' Administration Schedule for Rating Disabilities (VASRD) coding and rating standards for the spine, which were in effect at the time of separation, were changed on 23 September 2002 for code 5293 (intervertebral disc syndrome) criteria, and then changed to the current §4.71a rating standards on 26 September 2003. The 2001 standards for rating based on ROM impairment were subject to the rater's opinion regarding degree of severity, whereas the current standards specify rating thresholds in degrees of ROM impairment. The old spine rules also separated the spine into three ratable segments and the dorsal spine (thoracic) could be separately rated from the lumbar spine, versus the current VASRD combined thoracolumbar spine segment. For the reader's convenience, the 2001 rating codes under discussion in this case are excerpted below.

5285 Vertebra, fracture of, residuals:
With cord involvement, bedridden, or requiring long leg braces 100
Consider special monthly compensation; with lesser involvements
rate for limited motion, nerve paralysis.
Without cord involvement; abnormal mobility requiring neck brace
(jury mast)..... 60

In other cases rate in accordance with definite limited motion or muscle spasm, adding 10 percent for demonstrable deformity of vertebral body.

Note: Both under ankylosis and limited motion, ratings should not be assigned for more than one segment by reason of involvement of only the first or last vertebrae of an adjacent segment.

5291 Spine, limitation of motion of, dorsal:	
Severe.....	10
Moderate.....	10
Slight.....	0
5292 Spine, limitation of motion of, lumbar:	
Severe.....	40
Moderate.....	20
Slight.....	10
5295 Lumbosacral strain:	
Severe; with listing of whole spine to opposite side, positive Goldthwaite's sign, marked limitation of forward bending in standing position, loss of lateral motion with osteoarthritic changes, or narrowing or irregularity of joint space, or some of the above with abnormal mobility on forced motion.....	40
With muscle spasm on extreme forward bending, loss of lateral spine motion, unilateral, in standing position.....	20
With characteristic pain on motion.....	10
With slight subjective symptoms only.....	0

The Board considered that VASRD spine criteria applicable at the time of separation allow for separate ratings of the thoracic (dorsal) and lumbar spine if there is involvement of more than the first or last vertebrae of the adjacent segments. The VA exam was of little probative value given its remoteness for separation, and the VA rating used changed VASRD criteria not applicable to the date of separation. Although thoracic and lumbar involvements were noted on the MEB exam, only the first level of the lumbar segment demonstrated radiographic abnormalities and thus, did not allow for separate ratings of both the dorsal (thoracic) and lumbar segments. The Board considered the CI's parachuting duties and radiographs indicating demonstrable deformity of vertebral bodies in the thoracic spine were likely related to old compression injury, although there was no a specific compression fracture event noted in the records. The provisions of 5258 (Vertebra, fracture of, residuals) were considered. There was demonstrable deformity of vertebral bodies (dorsal and lumbar) and definite limited motion of the dorsal and lumbar spine segments; therefore, the CI met the criteria for adding 10% to the limited motion rating. The VA exam was of little probative value given its remoteness for separation. Considering the definite limitation of motion of the dorsal (thoracic) and uppermost lumbar segments of the spine and the additional demonstrable deformity of vertebral bodies, the Board considered analogous coding of 5285-5292, or 5285-5291 or 5285-5291-5292 at 20% (10% + 10%). Although the older VASRD allowed up to four disability codes, the Board favored 5285-5292 as the analogous code of choice. After due deliberation, considering all of the evidence and mindful of VASRD §4.3 (reasonable doubt), the Board recommends a disability rating of 20% for the mid and lower back 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 mid and lower back condition, the Board unanimously recommends a disability rating of 20%, coded 5285-5292 IAW VASRD §4.71a. 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, effective as of the date of his prior medical separation:

UNFITTING CONDITION	VASRD CODE	RATING
Condition Chronic Mid and Low Back Pain with Degenerative Disc Disease Thoracic and Lumbar Spines	5285-5292	20%

The following documentary evidence was considered:

Exhibit A. DD Form 294, dated 20120612, w/atchs
Exhibit B. Service Treatment Record
Exhibit C. Department of Veterans' Affairs Treatment Record

XXXXXXXXXXXXXXXXXXXX, DAF
President
Physical Disability Board of Review

SFMR-RB

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

SUBJECT: Department of Defense Physical Disability Board of Review Recommendation
for XXXXXXXXXXXXXXXX, AR20130000029 (PD201200915)

1. 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 to modify the individual's disability rating to 20% without recharacterization of the individual's separation. This decision is final.
2. I direct that all the Department of the Army records of the individual concerned be corrected accordingly no later than 120 days from the date of this memorandum.
3. I request that a copy of the corrections and any related correspondence be provided to the individual concerned, counsel (if any), any Members of Congress who have shown interest, and to the Army Review Boards Agency with a copy of this memorandum without enclosures.

BY ORDER OF THE SECRETARY OF THE ARMY:

Encl

XXXXXXXXXXXXXXXXXXXX
Deputy Assistant Secretary
(Army Review Boards)

CF:
() DoD PDBR
() DVA