Vet. App. No. 18-5183

IN THE UNITED STATES COURT OF APPEALS
FOR VETERANS CLAIMS

LARRY D. JAMERSON,
Appellant,

v.

ROBERT L. WILKIE,
Secretary of Veterans Affairs,
Appellee.

ON APPEAL FROM THE
BOARD OF VETERANS' APPEALS

BRIEF OF APPELLEE SECRETARY OF VETERANS AFFAIRS

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

REGULATIONS

RECORD CITATIONS

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Appellant	)	
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	)	
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ON APPEAL FROM
THE BOARD OF VETERANS' APPEALS

BRIEF OF APPELLEE
SECRETARY OF VETERANS AFFAIRS

I. ISSUE PRESENTED

Whether the Court should affirm the February 23, 2018, Board of Veterans' Appeals (Board) decision, which denied Appellant's claim of entitlement to service connection for an acquired psychiatric disorder.

II. STATEMENT OF THE CASE

Jurisdictional Statement

The Court has proper jurisdiction pursuant to 38 U.S.C. § 7252(a).

Nature of the Case

Appellant appeals a February 23, 2018, Board decision, which denied his claim of entitlement to service connection for an acquired psychiatric disorder. Record (R) at 1-12. *See* Appellant's Brief (App. Br.) at 1-18. Appellant has not demonstrated that the Board decision is clearly erroneous or the product of

prejudicial error for the reasons discussed below, and the Board's denial of those claims should therefore be affirmed.

Statement of Relevant Facts

Appellant served on active duty in basic training from November 11, 1975, to December 10, 1975 (one month of service). (R. at 750).

A July 1975 medical examination from Lincoln University noted was "well adjusted" psychological and socially. (R. at 845 (845-47)). Appellant was deemed mentally fit to attend school. *Id*.

Service treatment records (STRs) include a November 1975 enlistment examination that noted no abnormalities upon psychiatric clinical evaluation. (R. at 378 (378-79)). Appellant's report of medical history at entrance, indicated that he had depression or excessive worry, and frequent trouble sleeping, among other things. (R. at 380 (380-81)). The examiner's summary and observations or pertinent facts noted depression, insomnia, and tension headaches "from worry[ing]." *Id*. at 381. A November 21, 1975 treatment visit indicated that Appellant was "nervous – wants out of service." (R. at 386).

An October 1977 Missouri State Department of Education decision assisted in the processing of Appellant's claim for Social Security Administration (SSA) disability benefits found depression, insomnia, and other symptoms present, and noted that they had pre-existed service. (R. at 114 (113-14)).

A February 1983 Colorado state social services report noted a normal mental status examination. (R. at 209 (207-09)).

Appellant underwent a psychological evaluation in November 1983 which revealed a "good deal of depression and a fairly high level of anxiety[,]" as well as "some significant paranoid ideation." (R. at 762 (762-64)). The psychologist noted that testing showed "solid verbal skills" but marked decrease in "quick response time, management of spatial concepts, hand-eye coordination, and concrete synthesis of parts into a whole." *Id*. at 764. The psychologist noted that there may be possible central nervous system dysfunction which should be explored considering his "involvement in boxing for about seven years." *Id*.

A January 1984 physician's note reported a diagnosis of "severe anxiety neurosis with depressive features." (R. at 760 (758-60)). Appellant reported that his brother tried to kill him as a child and his mother "was doing him psychological violence". *Id*. at 758, 760. The physician noted that Appellant left military service "because he couldn't keep up with the demands" and that Appellant believed "chronic lifelong pattern of poverty and its influences" consumed "so much time and energy" and "disturbed his life deeply." *Id*. at 760.

An Administrative Law Judge decision in July 1994, from the SSA, noted that Appellant "reported that his mental problems began in 1984, when one of his friends was killed." (R. at 160 (159-63)).

Appellant, in a January 1996 psychiatric evaluation, alleged that his "problem started in 1978" when there was a murder in his college dormitory. (R. at 155 (155-56)). Appellant reported that he became paranoid after that incident and that he got depressed "when he is paranoid." *Id*. at 155. Appellant was

assessed with atypical, not otherwise specified bi-polar affective disorder, mixed with psychotic features; possible generalized anxiety disorder (GAD); and paranoid personality disorder. *Id*. at 156.

In a Department of Education June 1998, physician's certification of borrower's total and permanent disability indicated that Appellant's depression and anxiety began in November 1975. (R. at 779).

A VA treatment record from February 1998 indicated that Appellant had "a fairly long psychiatric history dating back to high school, when he was seen briefly for suicidal ideation, and then more seriously in college when he began getting anxious and paranoid." (R. at 691 (691-92)).

Appellant reported that he had a "pre existing condition of anxiety depression at the date of enlistment in service" in a March 2010 statement in support of his claim. (R. at 756 (756-57)).

In an April 2010 statement, Appellant reported that on his first day of basic training, he was "made to stay in the push up position for an hour" and his "blood pressure went up and did not go back down." (R. at 696 (696-97)). Appellant alleged that the forced push-ups were "abuse" that he "endured the first day of basic training" caused his need for mental health treatment. *Id*.

In March 2010, Appellant filed a claim for entitlement to compensation for depression and anxiety. (R. at 752-55). The Regional Office (RO) denied Appellant's claim in an October 2010 rating decision, (R. at 505-11), and Appellant filed a notice of disagreement in December 2010, (R. at 495-96).

The Honorable Terry Smith reported, in a December 2010 lay statement, that Appellant started to drink post-service to relieve anxiety attacks he was having, that he left school to join service and returned the following semester, and that his "pain started" after he had a "punishment" of holding a push-up position for an hour while in service. (R. at 491).

The RO issued a Statement of the Case (SOC) in November 2012, continuing the denial of the claim. (R. at 419-41). Appellant filed his substantive appeal in December 2012. (R. at 414-15).

Appellant testified before a Veterans Law Judge in a March 2017 hearing. (R. at 286-94)). Appellant testified that his military service worsened his pre-existing depression and anxiety, which he had since childhood. *Id*. at 289, 291. Appellant also testified that he was injured on the first day of basic training, that his injury prevented him from engaging in physical activity, and that his anxiety and depression were worsened by inactivity. *Id*. at 289.

In September 2017, the Board remanded the claim to obtain records and a VA examination. (R. 260 (251-61)).

VA provided that examination in October 2017. (R. at 58-64). The examiner noted that Appellant was diagnosed with GAD and major depressive disorder, that he alleged worsening of a pre-existing condition of depression and anxiety, and noted Appellant's report that his depression and anxiety worsened due to his inability to exercise in service. *Id*. at 58-59. Appellant reported to the examiner that he "boxed to relief (sic) his anxiety." *Id*. at 58. The examiner

reviewed the record and obtained a history of impairment. *Id*. at 60. In that history, the examiner noted that Appellant reported that he was raised by his mother, was the product of a rape, that his mother "physically punished and abused [him] from the time he was five years old[,]" neglected him, and mentally abused him. *Id*. at 60. Appellant also reported that he was not close to his siblings, that his brother made him "lick[] his foot" when he asked for some chips once, and that had to live in fear for his life. *Id*. at 61. Appellant reported that he "went into service at 20 but was only in service for a month before he was separated." *Id*. at 61. Post-service, Appellant reported that he attended college, "but his anxiety was too overwhelming and he did not stay." *Id*. He also reported that he received SSA benefits in 1978 and has not "had to work since that time[,]" and that he "moves himself to another town" when he "gets anxious." *Id*. The examiner elicited information regarding relevant occupation and educational history, including military history. *Id*. Appellant reported his in-service "stressor" to have began "on the first day of basic training" where he was asked to "stay in the push up position for an hour" and his "blood pressure went up and did not go back down." *Id*. He reported that due to his "inability to do any more push-ups, he was no longer able to complete basic training and separated" from service. *Id*.

In the remarks section of the examination report, the examiner noted that Appellant "contend[ed] that his anxiety and depression were permanently worsened by the stressor statement he described." *Id*. at 63. The examiner

noted that Appellant's treatment records, however, showed "significantly more factors that contribute[d] to the worsening of his symptoms to include periodic drug use, witnessing the death of a friend in 1984, the additional diagnosis of manic depression and paranoid personality disorder[], possible neurological sequala from boxing[], and his transient life style." *Id*. The examiner opined the following:

> [i]t is likely that [Appellant's] stressor statement is a part of his worsening condition. However, it is more likely than not that it is not the only condition that has resulted in the permanent worsening of his pre-existing depression and anxiety. It is not reasonable to conclude based on this present interview and a thorough review of [Appellant's] records that his depression and anxiety was permanently worsened beyond the natural progression of his diseases by one single factor.

Id.

The RO issued a supplemental SOC in December 2017 and continued the denial of his claim. (R. at 35-49). The Board issued a February 2018 decision denying Appellant's claim. (R. at 1-12). This appeal followed.

III. SUMMARY OF ARGUMENT

The Court should affirm the February 2018, Board decision denying entitlement to service connection for an acquired psychiatric disorder. Appellant has conceded that his psychiatric condition preexisted service; therefore, the only issue on appeal is whether his condition was aggravated beyond the natural progress of the disease during service. Appellant entered service with reports of excessive worry. He alleged that his anxiety and depression were aggravated on

his first day of service. Appellant only served in service for one month. A VA examiner opined that his condition was not aggravated by service. The Board relied upon these facts, *inter alia*, and properly found that clear and unmistakable evidence showed that Appellant's condition did not worsen beyond the natural progress of the disease in service. Appellant's arguments do not identify error in the Board's decision. Thus, the decision on appeal should be affirmed.

IV. ARGUMENT

A. The Board Properly Denied Appellant's Claim Where the Evidence Showed that Any Aggravation was Due to Post-Service Factors.

When no preexisting medical condition is noted upon entry into service, a veteran is presumed to have been sound upon entry. 38 U.S.C. § 1111; *Wagner v. Principi*, 370 F.3d 1089, 1096 (Fed. Cir. 2004); *Bagby v. Derwinski*, 1 Vet.App. 225, 227 (1991). The burden then falls on the government to rebut the presumption of soundness by clear and unmistakable evidence that the veteran's disability was both preexisting and not aggravated by service. *Wagner*, 370 F.3d at 1096; *Bagby*, 1 Vet.App. at 227.

VA may show a lack of aggravation by establishing by clear and unmistakable evidence "that there was no increase in disability during service or that any 'increase in disability [was] due to the natural progress of the' preexisting condition." *Wagner*, 370 F.3d at 1096 (quoting 38 U.S.C. § 1153). Clear and unmistakable evidence means that the evidence "cannot be misinterpreted and

misunderstood, i.e., it is undebatable." *Vanerson v. West*, 12 Vet.App. 254, 258 (1999).

Whether the Secretary has rebutted the presumption of sound condition is a matter that the Court reviews de novo. *Miller v. West*, 11 Vet.App. 345, 347 (1998). However, the factual determinations underlying the Board's decision are reviewed under the "clearly erroneous" standard. *See Bagby*, 1 Vet.App. at 227. "[T]he findings of the Board must be accorded substantial deference where this Court's de novo review rests on factual matters." *Andre v. West*, 14 Vet.App. 7, 11 (2000) (citing *Hensley v. West*, 212 F.3d 1255 (Fed. Cir. 2000)).

In this case, Appellant has implicitly conceded that there is clear and unmistakable evidence showing that he had a preexisting condition as he has not raised any issues with the Board's determination of the same; therefore, the first element of the presumption of soundness has been rebutted and that issue is no longer before the Court. *See Hodges v. West*, 13 Vet.App. 287, 290 (2000) (citing *Degmetich v. Brown*, 8 Vet.App. 208, 209 (1995)) (issues or claims not argued on appeal are deemed to be abandoned); App. Br. at 7-17 (where Appellant only argues errors with respect to the Board's determination that his acquired psychiatric disorder was not aggravated by service); (R. at 10) (where the Board acknowledged that Appellant "always alleged worsening of pre-existing anxiety or secondary causation or worsening by another disability and never that the acquired psychiatric disorder "emerged in-service")).

Since Appellant does not challenge the Board's finding that he had a preexisting psychiatric disorder, the only question is whether the Board properly found the evidence rebutted the second prong of the presumption of soundness by showing by clear and unmistakable evidence that Appellant's disorder was not aggravated by service beyond the natural progression of the disorder. *Wagner*, 370 F.3d at 1096.

i. The Board Relied Upon an Adequate VA Examination in Finding that Appellant's 30 Days of Service Did Not Aggravate Appellant's Pre-Existing Psychiatric Disorders.

In his brief, Appellant argues that the medical examination upon which the Board relied was internally inconsistent and does not provide a clear conclusion upon which the Board should have relied. App. Br. at 9. However, Appellant misunderstands the VA examination report, and it is, notwithstanding his contention to the contrary, an adequate VA examination.

Indeed, "once the Secretary undertakes the effort to provide an examination [or opinion] when developing a service-connection claim, . . . he must provide an adequate one." *Barr v. Nicholson*, 21 Vet.App. 303, 311 (2007). A medical examination or opinion is adequate "where it is based upon consideration of the veteran's prior medical history and examinations," *Stefl v. Nicholson*, 21 Vet.App. 120, 123 (2007), "describes the disability, if any, in sufficient detail so that the Board's 'evaluation of the claimed disability will be a fully informed one,'" *id*. (quoting *Ardison v. Brown*, 6 Vet.App. 405, 407 (1994)) (internal quotation marks omitted), and "sufficiently inform[s] the Board of a

medical expert's judgment on a medical question and the essential rationale for that opinion," *Monzingo v. Shinseki*, 26 Vet.App. 97, 105 (2012) (per curiam). The law does not impose any reasons-or-bases requirements on medical examiners and the adequacy of medical reports must be based upon a reading of the report as a whole. *Id*. at 105-06. The Board's determination of whether a medical examination or opinion is adequate is a finding of fact, which the Court reviews under the clearly erroneous standard. *D'Aries v. Peake*, 22 Vet.App. 97, 104 (2008) (per curiam).

VA afforded Appellant an examination in October 2017 and that examiner reviewed his claims file and noted Appellant's history of psychiatric disorder. (R. at 60 (58-64)). Among other things, the examiner noted Appellant's report that his "stressor" that he claimed to have aggravated his condition in service was an incident on the first day of basic training when he was asked to stay in the push-up position for an hour. *Id*. at 61. The examiner opined that it was likely that his "stressor statement is a ***part of*** his worsening condition." *Id*. at 63 (emphasis added). However, the examiner opined that it was "more likely than not that ***it [wa]s not the only condition that ha[d] resulted in the permanent worsening*** of his pre-existing depression and anxiety." *Id*. (emphasis added). The examiner explained that Appellant's treatment records reflected "significantly more factors that contribute[d] to the worsening of his symptoms to include periodic drug use, witnessing the death of a friend in 1984, the additional diagnosis of manic depression and paranoid personality disorder[], possible

neurological sequala from boxing[], and his transient life style." *Id*. The examiner concluded his opinion that it was not reasonable to conclude upon the interview and the review of Appellant's records that Appellant's depression and anxiety permanently worsened beyond the natural progression of his disease by "one single factor." *Id*.

The examination, for purposes of *Stefl*, *Ardison*, and *Monzingo* is adequate. *Stefl*, 21 Vet.App. at 123; *Ardison*, 6 Vet.App. at 407; *Monzingo*, 26 Vet.App. at 105. The examiner clearly thoroughly considered Appellant's prior medical history, *see* (R. at 60 (58-64)), described the disability in detail, *see id*. at 58-64, and provided an opinion with supporting and essential rationale, *see id*. at 63.

Appellant's argument that the examiner's opinion was internally inconsistent and contradictory is a mischaracterization of the VA examination report. *See* App. Br. at 9, 10-12. Indeed, the examiner did "first acknowledg[e] that [Appellant's] in-service stressor [wa]s part of his worsening condition[,]" see App. Br. at 9, but there was no later contradiction or inconsistency, as alleged by Appellant. *See* (R. at 63 (58-64)). The examiner's opinion clearly states that service was a factor of the general worsening of impairment, **but only** when taking into account the **collective of all post-service incidents** causing aggravation. In other words, it was not the individual "stressor" or event in service that caused the aggravation. The examiner was clear in rendering this opinion. He opined that service was "part of his worsening" but that it was not

reasonable to conclude that the anxiety and depression "was permanently worsened beyond the natural progression of his diseases by **one single factor**." *Id* (emphasis added). This statement, only when read in conjunction with the opinion wholly, is entirely consistent. *See Monzingo*, 26 Vet.App. at 106 (holding that a medical examination report must be read as a whole and does not require that it "explicitly lay out the examiner's journey from the facts to a conclusion"). The examiner noted that Appellant's records showed that "significantly more factors" contributed to Appellant's worsening of symptoms that included post-service periodic drug use, witnessing a friend's death in 1984, his post-service transient life style, and possible neurological sequala from boxing. *Id*. *See* (R. at 62 (58-64) (where the examiner noted relevant substance abuse history as "smok[ing] marijuana when he was married")); *id*. at 61 (where Appellant reported that he got married in 1980-1981, or post-service); *id*. (where he reported, post-service, that he "moves himself to another town" when he gets anxious); (R. at 160 (where the SSA adjudicator noted that Appellant's mental problems purportedly began post-service, in 1984, after he witnessed a friend's murder)); (R. at 155 (155-56) (where he reported that his problem started post-service, in 1978, when he witnessed a murder in college)); (R. at 764 (762-64) (where a psychologist noted possible central nervous system dysfunction possibly due to boxing for about seven years at a post-service, 1983, evaluation)); *see also* (R. at 483 (481-84) (where Appellant reported, at a December 2010 mental health assessment, that he spent 5 days over the past 30 days using drugs at a mental

health assessment)). When eliminating all of the factors that caused post-service aggravation from the equation, the only factor left standing is Appellant's purported "stressor." With respect to an individual causal factor theory of aggravation, the examiner explicitly opined that there was no permanent worsening beyond the natural progression of his disease by one single factor. (R. at 63 (58-64)). Consequently, there was no worsening beyond the natural progression of his disease by the in-service "stressor" or event. The Board does not "fail[] to understand the VA [e]xaminer's [r]emarks[,]" as Appellant contends. *See* App. Br. at 10. Rather, Appellant wishes that the examiner be obligated to achieve the insurmountable by explicitly laying out his journey from facts to conclusion; this is inconsistent with *Monzingo*. 26 Vet.App. at 106. When read in its entirety, the VA opinion cannot be misinterpreted or misunderstood to mean anything other than service did not cause aggravation beyond the natural progress of the disability.

As there is no ambiguity in the examiner's opinion, despite Appellant's argument, and the examination is adequate for the reasons expressed above, the Board's reliance upon the adequate VA examination is not clear error. *See Bagby*, 1 Vet.App. at 227; *see also Anderson v. City of Bessemer City, N.C.*, 470 U.S. 564, 574 (1985). ("Where there are two permissible views of the evidence, the factfinder's choice between them cannot be clearly erroneous.").

ii. The Board Provided an Adequate Statement of Reasons or Bases for Denying Appellant's Claim.

In every decision, the Board must provide a statement of the reasons or bases for its determination, adequate to enable an appellant to understand the precise basis for the Board's decision as well as to facilitate review in this Court. 38 U.S.C. § 7104(d)(1); *see Allday v. Brown*, 7 Vet.App. 517, 527 (1995); *Gilbert v. Derwinski*, 1 Vet. App. 49, 56-57 (1990). To comply with this requirement, the Board must analyze the credibility and probative value of the evidence, account for the evidence it finds persuasive or unpersuasive, and provide the reasons for its rejection of any material evidence favorable to the claimant. *Caluza v. Brown*, 7 Vet.App. 498, 506 (1995), *aff'd per curiam*, 78 F.3d 604 (Fed. Cir. 1996).

Appellant advances several arguments regarding the adequacy of the Board's decision. App. Br. at 11-17. None, however, show error.

First, to the extent that Appellant argues that the Board's "interpretation of the examiner's remarks and [its] subsequent written conclusion is simply wrong[,]" it is Appellant, and not the Board, that gets things wrong. *See* App. Br. at 12. The Board found that the "conclusion and opinion provided . . . in the October 2017 examination [wa]s more probative." (R. at 11 (1-12)). The Board characterized the examiner's findings as the following:

> [The examiner] determined that psychiatric disorders . . . were less likely than not aggravated by service. As a result, the examiner stated that aggravation of his acquired psychiatric disorders was caused by a variety of events, as outlined in the opinion, and it was less likely than not that they were not permanently worsened beyond the natural progression by service. This opinion is supported by the treatment records submitted for a

> variety of decades after service, which reported a series of traumatic events after service.

(R. at 11 (1-12)). The Board did not misstate the examiner's opinions or substitute its own medical judgement for "that of the treating physician." *See* App. Br. at 12. *Compare* (R. at 11 (1-12) (where the Board described the examination report and the opinion)) *with* (R. at 58-64 (where the examiner's opinion does not vary from the Board' discussion of the same evidence)). Additionally, the VA examiner was not a "treating physician," as Appellant described the examiner. The examination was provided to obtain a medical opinion to assist the Board in its adjudication of Appellant's claim. *See* (R. at 259 (251-61) (where the Board previously remanded the claim because "there ha[d] been no medical examination or opinion . . . [and] there [wa]s not sufficient evidence to make a decision on th[e] matter")). It is clear that VA, in that September 2017 remand, steered clear from substituting its own medical judgement for that of a medical professional by obtaining the adequate October 2017 VA examination, upon which it appropriately relied in its decision now on review. *See Colvin v. Derwinski*, 1 Vet.App. 171, 175 (1991); *see also* (R. at 11 (1-12)); (R. at 58-64). Appellant's contentions, in this regard, amount to no error. App. Br. at 12.

Second, Appellant argues that the Board erred by failing to discuss Appellant's "after service social struggles." App Br. at 14; *see also* App. Br. at 13-14. The Secretary is unable to understand the articulation of any purported

error in Appellant's cursory explanation of the purported error. Seemingly, Appellant contends that the Board erred by failing to discuss whether he was able to work after service. However, Appellant also specifically points to evidence indicating that he has "not ever been able to maintain either full or part time employment in his entire life." App. Br. at 13 (citing (R. at 88-92)). In any event, whether Appellant can or cannot work now is irrelevant to his claim for entitlement to service connection for a psychiatric disorder and the Board did not err in its purported failure to discuss evidence of unemployability where unemployability is not at issue. *See* 38 C.F.R. § 4.16 (regulation describing total disability ratings for compensation based on unemployability of the individual).

Third, Appellant argues that the Board failed to consider all potentially applicable provisions of law and regulation in denying his claim. App. Br. at 14-15. But, his argument lies on the underlying presupposition, proved wrong in the Secretary's response herein, that the Board's reliance on the VA examination was inappropriate. *Id*.; *see supra*. As discussed *supra*, Appellant misunderstands or misreads the VA examination and there was a clear opinion that negated any aggravation from Appellant's in-service "stressor." *See* (R. at 58-64). It follows that his argument here, too, fails as he has failed to articulate any reason that the finding of no aggravation was debatable.

Fourth, Appellant argues that the Board erred when it relied upon the examiner's "less likely than not standard instead of the proper clear and unmistakable evidence" standard. App. Br. at 16-17. Yet, there is no

requirement that medical examiners provide legal analysis of a disability, as that analysis is reserved for the adjudicator. *See D'Aries*, 22 Vet.App. at 106 (explaining that a legal construct is to be applied by an adjudicatory body and not by a medical professional when rendering an opinion). All that is required is a "specific" finding that the disability was not permanently aggravated by service. *Joyce v. Nicholson*, 19 Vet.App. 36, 50-51 (2005). Such specific finding is clearly present in this case. *See* (R. at 11-12 (1-12), 63 (58-64)). Additionally, medical examiners do not need to meet the same reasons or bases requirement that is set before the Board. *See Ardison*, 6 Vet.App. at 407. A medical examiner is only required to describe the disability in sufficient detail to the Board so that the Board's evaluation of the disability will be a fully informed one. *Id*.; *see also Barrett v. Nicholson*, 466 F.3d 1038, 1043 (Fed. Cir. 2006) (noting that VA medical staff is "supremely qualified" to make determinations of mental incapacity); *Miller*, 11 Vet.App. at 348 (medical opinion evidence can be used to rebut a presumption as long there is factual evidence of record upon which the opinion is based.).

The medical examiner in this case rendered its opinion based upon medical judgment, manifestations of Appellant's symptomatology, and Appellant's medical history as set forth in his treatment records. *See* 38 C.F.R. § 3.304(b)(1); *Adams v. West*, 13 Vet.App. 453, 456 (2000). As discussed in more detail above, Appellant has set forth no argument supported by law or fact explaining how the Board's determination that the medical examiner's

conclusion, and the Board's reliance upon it, were erroneous. *See Hilkert v. West*, 12 Vet.App. 145, 151 (1999); ***aff'd***, 232 F.3d 908 (Fed. Cir. 2000) (holding that the appellant has the burden of demonstrating error in the Board's decision). Therefore, Appellant's argument in this regard should not succeed.

In sum, the Board's statement of reasons or bases for denying Appellant's claim was adequate. The Board relied upon the fact that Appellant was discharged from service "after only one month" (R. at 750); Appellant's self-reports of excessive worry in the report of medical history upon entrance (R. at 380 (380-81)); a treatment visit during service noting that he was "nervous" and "want[ed] out of service" (R. at 386); and the October 2017 VA examiner opining that there was no aggravation during service after reviewing the evidence thoroughly and finding his aggravation attributed to a combination of post-service factors (R. at 58-64) to find that clear and unmistakable evidence demonstrated that his condition was not aggravated beyond a natural progression from service. (R. at 10-12 (1-12)). While each piece of evidence, reviewed individually, might not have been sufficient to overcome the burden of rebutting the presumption of soundness, when the evidence is reviewed as a whole, it constitutes clear and unmistakable evidence that Appellant's psychiatric disorder did not increase in severity beyond its natural progression while he was in service or as a result of his one-month of service. Therefore, and for the reasons discussed above, the Court should conclude that the Board did not err in denying Appellant's claim for service connection.

B. Appellant has abandoned all issues not argued in his brief.

It is axiomatic that issues not raised on appeal are abandoned. *See Disabled Am. Veterans v. Gober*, 234 F.3d 682, 688 n.3 (Fed. Cir. 2000) (stating that the Court would "only address those challenges that were briefed"); *Winters v. West*, 12 Vet.App. 203, 205 (1999); *Williams v. Gober*, 10 Vet.App. 447, 448 (1997) (deeming abandoned BVA determinations unchallenged on appeal); *Bucklinger v. Brown*, 5 Vet.App. 435, 436 (1993). Thus, any and all other issues that have not been addressed in Appellant's Brief, have therefore been abandoned.

V. CONCLUSION

In view of the foregoing arguments, Appellee, the Secretary of Veterans Affairs, respectfully requests that the Court affirm the February 2018 Board decision denying entitlement service connection for an acquired psychiatric disorder.

Respectfully submitted,

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