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**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

ADDENDUM TO RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2018-03109-2

[REDACTED]

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His DD Form 214, *Certificate of Release or Discharge from Active Duty*, Block 4a, *Grade, Rate or Rank* and Block 4b, *Pay Grade*, be corrected to reflect the grade of technical sergeant (E-6) rather than staff sergeant (E-5).

RESUME OF THE CASE

On 28 Oct 12, the applicant was honorably discharged in the grade of SSgt (E-5) after serving 12 years, 7 months and 21 days of active duty.

On 28 Oct 12, according to an email from AFPC/DPSDD, dated 2 Jul 12, the applicant is entitled to disability severance pay in the grade of TSgt (E-6) computed IAW 10 USC 1212.

On 7 Mar 14, according to a letter provided by the applicant, DFAS informed the applicant his debt, in the amount of \$8,265.56, remained valid. DFAS reviewed his AF IMT 100, *Request and Authorization for Separation*, which states in paragraph 9, the FY02 National Defense Authorization Act (NDAA) amended section 1212 of Title 10 USC to authorize separation with severance pay in the grade of TSG (E6) to which a member would have been promoted, had it not been for physical disability. Regrettably, based on his DD Form 214, which reflects E5 pay grade, they were unable to pay him at an E6 rate. He was further advised in order to be paid at the grade of E6, he would need to provide their office with an amended (DD Form 215), stating he was entitled to discharge with severance pay at the E6 rate.

On 26 Feb 19, the Board considered and denied his request to change his DD Form 214, to reflect the grade of TSgt rather than SSgt, finding a preponderance of the evidence did not substantiate the applicant's contentions. The Board also noted the prior request was not timely submitted.

For an accounting of the applicant's original request and the rationale of the earlier decision, see the AFBCMR Letter and Record of Proceedings at Exhibit E.

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On 26 May 23, the applicant again requested the grade on his DD Form 214 be changed. He contends the incorrect grade on his DD Form 214 caused the Air Force to charge an overpayment in severance pay. If the DD Form 214 properly displayed the correct grade of TSgt, he could receive the remainder of his severance pay in the amount of \$8,265.56. In support of his request, the applicant submits the following new evidence: (1) DFAS Memo dated 7 Mar 14, and (2) DFAS-IN Form 0-641, *Statement of Military Pay Account*.

The applicant's complete submission is at Exhibit F.

AIR FORCE EVALUATION

AFPC/DPFDD recommends partially granting the application. On 2 Jul 12, DPFDD directed the applicant be disability discharged and authorized severance pay in the grade of TSgt. Although the applicant was authorized severance pay based on the projected grade of TSgt, he did not actually promote so his separation order and DD Form 214 were properly prepared to show he was a SSgt on his 28 Oct 12 date of separation. According to a 7 Mar 14, letter from DFAS he was initially paid disability severance as a TSgt IAW his separation order; however, they later determined this payment was incorrect based on the grade listed on his DD Form 214. This determination was incorrect since the grade on his DD Form 214 is the grade he held at the time of separation and does not account for a projected promotion or any of the provisions of 10 USC, Section 1212 that may result in a member being authorized severance pay in a higher grade. Based on documentation provided by the applicant and analysis of the facts there is indication that an error or injustice occurred. DPFDD recommends the applicant be authorized disability severance pay based on the projected grade of TSgt but do not recommend correction to his DD Form 214. DPFDD also recommends the AFBCMR obtain an advisory opinion from DFAS to determine why the provisions of DoDFMR 7000.14-R, Vol 7A, Chap 35, would not be applicable in this case.

The complete advisory opinion is at Exhibit G.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 14 Feb 24 for comment (Exhibit H) but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DPFDD and finds a preponderance of the evidence substantiates the applicant's contentions in part. Specifically, the email from AFPC/DPSDD, dated 2 Jul 12, stating the applicant is entitled to disability severance pay in the grade of TSgt (E-6) computed IAW 10 USC 1212, is sufficient to justify partial relief. However, regarding the applicant's request to change the DD Form 214, Blocks 4a and 4b, the

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evidence presented did not demonstrate an error or injustice, and the Board therefore finds no basis to recommend granting that portion of the applicant's request. Therefore, the Board recommends correcting the applicant's records to the extent indicated below.

4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show:

a) In conjunction with the applicant's honorable discharge on 28 Oct 12, he was authorized disability severance pay in the grade of technical sergeant (E-6).

b) Any debt associated with the disability severance pay already received be removed and any unpaid portions of the authorized disability severance pay in the grade of technical sergeant (E-6) be paid to the applicant.

However, regarding the remainder of the applicant's request, the Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the application will only be reconsidered upon receipt of relevant evidence not already considered by the Board.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2018-03109-2 in Executive Session on 14 May 24:

[REDACTED] Panel Chair
[REDACTED], Panel Member
[REDACTED], Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit E: Record of Proceedings, w/ Exhibits A-D, dated 26 Feb 19.
- Exhibit F: Application, DD Form 149, w/atchs, dated 26 May 23.
- Exhibit G: Advisory Opinion, AFPC/DPFDD, dated 19 Dec 23.
- Exhibit H: Letter SAF/MRBC, dated 14 Feb 24.

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Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

 Expired certificate

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Board Operations Manager, AFBCMR

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