

---

---

**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2020-01956

XXXXXXXXXX  
(DECEASED)

**COUNSEL:** NONE

XXXXXXXXXX  
(APPLICANT)

**HEARING REQUESTED:** YES

---

---

**APPLICANT'S REQUEST**

1. Change the deceased member's World War II field promotion to staff sergeant (E-5), to technical sergeant (E-6).
2. His retirement as a master sergeant (E-7), changed to a senior master sergeant (E-8).
3. His widow receive all retroactive pay and benefits.

**APPLICANT'S CONTENTIONS**

The member met the criteria for a field promotion to E-6, but due to a clerical error, the member's field promotion was instead to E-5. Had this error not occurred, his promotion to E-6 would have been followed by successive promotions resulting in him retiring as an E-8 instead of an E-7. The clerical error that resulted in an injustice was discovered in 1985 when the member attended his World War II bomber group reunion, and learned from an unnamed individual he should have received the aforementioned promotion to E-6 based on his credentials (mechanic certifications). Unfortunately, the member passed away while in the process of gathering supportive documentation to correct this clerical error/injustice that has spanned over 60 years.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is the son of the deceased member, a retired Air Force master sergeant (E-7).

On 14 Nov 40, the member entered active duty in the Regular Army. According to the member's AF Form 7, *Airman Military Record*, his promotion dates are as follows:

<u>GRADE</u>	<u>DATE OF RANK</u>
Staff Sergeant (E-5)	20 Aug 48
Technical Sergeant (E-6)	1 Mar 52
Master Sergeant (E-7)	1 Jun 64

On 31 Jan 67, the member was relieved from active duty, and retired 1 Feb 67, in the rank/grade of master sergeant/E-7.

On 5 Apr 85, the member passed away.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

### **AIR FORCE EVALUATION**

AFPC/DP2SPP recommends denying the application based on the lack of official documentation. The applicant states that due to the member's credentials, he should have received a field promotion to E-6 during World War II, which would have resulted in the member reaching E-8 by the time of his retirement. A review of the deceased member's records reveal he was promoted to E-5, 20 Aug 48. They found no documentation in the deceased member's records indicating he should have been promoted to E-6 at an earlier date than 1 Mar 52. He was promoted to E-7, 1 Jun 64. The member would have been eligible for promotion consideration to E-8 in 1966. However, as the member initiated the process for retirement on 16 Jun 66, and HQ AFPC approved retirement on 26 Sep 66, he was ineligible for E-8 promotion consideration. He retired as an E-7, 1 Feb 67. Furthermore, the delay of over 70 years regarding this matter has greatly complicated the Air Force's ability to determine the merits of this case.

The complete advisory opinion is at Exhibit C.

### **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 3 Feb 22 for comment (Exhibit D), and the applicant replied on 28 Feb 22. In his response, the applicant contended the OPR's assessment is not in line with regards to the alleged error or injustice. He reiterated the clerical error that promoted his father to E-5 instead of E-6, resulted in his father's career track always being one rank below what he would later earn. He further contends that during the matter in question (commencement of World War II), it was a confusing time, and promotions/awards did not move at the efficiency of transmissions today. Also of concern is that institutional racism was apparent during the war, and could have possibly occurred against his father in this matter. In the 30 years pursuing correcting this matter, he has witnessed that when the letter and spirit of the law create an injustice, it is time to reevaluate the process.

The applicant's complete response is at Exhibit E.

### **FINDINGS AND CONCLUSION**

1. The application was not timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits to include the applicant's rebuttal, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DP2SPP and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. The Board does not find it in the interest of justice to waive the three-year filing requirement. Therefore, the Board finds the application untimely and recommends against correcting the applicant's records.

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 Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

### **CERTIFICATION**

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2020-01956 in Executive Session on 17 May 22:

, Panel Chair  
, Panel Member  
, Panel Member

All members voted against correcting the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 20 May 19.  
Exhibit B: Documentary evidence, including relevant excerpts from official records.  
Exhibit C: Advisory Opinion, AFPC/DP2SPP, dated 20 Sep 21.  
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 3 Feb 22.  
Exhibit E: Applicant's Response, dated 28 Feb 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

**X**

---

Board Operations Manager, AFBCMR