

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2021-01392

XXXXXXXXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

### APPLICANT'S REQUEST

1. His rank on discharge be corrected to sergeant (E-4).
2. He receive back pay.

### APPLICANT'S CONTENTIONS

After many years, he requests back pay and his promotion. On or about 1 May 69, he was promoted to E-4 and he expected to receive the increased pay but never received it. After three attempts to inquire about his missing pay, he received a letter from the Air Force stating there was no record of his promotion. Since 1 May 69, all correspondence to him has been addressed as sergeant.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a former Air Force Reserve sergeant (E-4).

Per his DD Form 214, *Armed Forces of the United States Report of Transfer or Discharge*, the applicant performed a period of active duty from 24 Feb 67 to 28 Jun 67 and was released from active duty in the grade of airman third class (E-2).

Per his DD Form 214, the applicant performed a subsequent period of active duty from 26 Jan 68 to 1 Jun 69 and was released from active duty in the grade of airman first class (E-3).

AFRES Form 186, *Request and Authorization for Reserve Order Promotion of Airman as Reserve of the Air Force*, dated 14 Apr 70 shows the applicant was promoted to E-4, with date of rank (DOR) and effective date 13 Apr 70.

The applicant's AF Form 7, *Airman Military Record*, states "Total AD less than 60 day period as of 71 Jan 24-00 days."

On 5 May 71, the applicant was honorably discharged from the Air Force Reserve in the rank of sergeant (E-4).

The applicant provides an undated memorandum from the Nellis AFB, NV finance office in response to his 25 Jul 69 request for back pay stating there was no record of his promotion to E-4 but they did have a record of his military pay order indicating he was released as an E-3.

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

## **APPLICABLE AUTHORITY/GUIDANCE**

Per AFMAN 37-139, *Records Disposition Schedule*, Promotion history files are only maintained for a period of 10 years.

AFI 36-3202, *Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series)*, Reserve members who are released from active duty orders covering a period 90 days or more of non-contingency orders will be provided a DD Form 214. There is no evidence the applicant performed a qualifying period of active duty for issuance of an additional DD Form 214.

## **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, the Board concludes the applicant is not the victim of an error or injustice. The applicant states he was promoted to E-4 prior to his discharge and is owed back pay. The Board does not dispute the applicant was promoted to E-4 prior to his discharge from the Air Force Reserve as evidenced by his Reserve Promotion Order dated 14 Apr 70 and his notification of discharge dated 18 Jun 71, which show his grade as E-4. However, he has provided insufficient evidence to substantiate he is entitled to any back pay. Moreover, his DD Forms 214 for his qualifying periods of active duty service preceded his promotion to E-4 and are therefore correct as reflected. Further, it has been more than 50 years since his discharge and the applicant's promotion history records are no longer available. 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.

## **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-2021-01392 in Executive Session on 6 Apr 22:

, Chair, AFBCMR  
, 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 13 Jan 21.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

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.