

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2021-03322

XXXXXX XXXXXX (DECEASED)

**COUNSEL:** NONE

XXXXXX XXXXXX (APPLICANT)

**HEARING REQUESTED:** NO

### APPLICANT'S REQUEST

The rank on her deceased spouse's DD Form 214, *Certificate of Release or Discharge from Active Duty*, be changed from senior airman (E-4) to technical sergeant (E-6).

### APPLICANT'S CONTENTIONS

Her spouse's retired DD Form 2AF, *United States Uniformed Services Identification Card*, was issued with his corrected grade of E-6. He did have a reduction in rank; however, he was retained and allowed to retest for the remainder of his service period. He was successfully promoted and awarded the rank of E-6 through his retirement. He is now deceased and the National Cemetery questioned the rank on his headstone. It was then she noticed the error. Her spouse never looked at or noticed the error on his DD Form 214 as his ID card was correct.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is the widow of a retired Air Force technical sergeant (E-6).

On 11 Sep 02, according to Special Court Martial Order Work-Pr..., the decedent was found guilty of the wrongful use of marijuana. He was sentenced to confinement for seven months, reduction from the grade of master sergeant (E-7) to E-4, and a reprimand.

On 2 May 03, the Secretary of the Air Force Personnel Council (SAFPC) conducted a grade determination and found that he did not serve satisfactorily in the grade of E-7. However, they determined he served satisfactorily in the grade of E-6 and directed his advancement to that grade on the retired list effective the date of completion of all required service.

On 31 May 03, according to DD Form 214, the decedent was released from active duty in the grade of E-4, for the purpose of retirement. He was credited with 20 years, 3 months, and 20 days of active duty service.

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

## **AIR FORCE EVALUATION**

AFPC/DP2SSR recommends denying the application. The data on the DD Form 214 is accurately reflected in accordance with governing directives. As a result, there is no error or injustice with the DD Form 214 preparation. AFI 36-3202, *Separation Documents*, states the rank/grade will be “the active duty grade held at the time of the close out of the DD Form 214.” This refers to the rank physically worn on the uniform on the last day of active duty. The member’s rank/grade on the last day of active duty, 31 May 03, was senior airman/E-4; therefore, the DD Form 214 is correct as indicated. The SAFPC memorandum, dated 2 May 03, states the member served satisfactorily in a higher grade for placement on the retired list. Any rank/grade increase after separation is for identification card and retirement pay purposes and has no bearing on the DD Form 214 preparation.

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 6 Apr 22 for comment (Exhibit D), but has received no response.

## **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 Board concurs with the rationale and recommendation of AFPC/DP2SSR 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.

## **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-2021-03322 in Executive Session on 19 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 4 Oct 21.

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

Exhibit C: Advisory Opinion, AFPC/DP2SSR, dated 5 Apr 22.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 6 Apr 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.

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Board Operations Manager, AFBCMR