

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-03906

XXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

The rank on his DD Form 214, *Armed Forces of the United States Report of Transfer or Discharge*, dated 20 Sep 63, be changed from airman third class (E-2) to staff sergeant (E-5).

APPLICANT'S CONTENTIONS

On 20 Sep 63, he was released from active duty and the rank on his DD Form 214 incorrectly reflects airman third class, when it should reflect staff sergeant. On 4 Mar 69, he was honorably discharged from the Air Force Reserve in the rank of staff sergeant. Therefore, he is requesting the change because the rank on his DD Form 214 is causing issues with his benefits.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force Reserve staff sergeant (E-5).

On 8 Mar 63, according to DD Form 220, *Active Duty Report*, the applicant was ordered to report for six-months of active duty training for the period 21 Mar 63 to 20 Sep 63.

On 20 Sep 63, according to DD Form 214, submitted by the applicant, he was released from active duty in the rank of airman third class and transferred to the Air Force Reserve.

On 1 Sep 66, according to Reserve Order Number X-XX, dated 1 Sep 66, the applicant was promoted to the rank of staff sergeant.

On 4 Mar 69, according to Reserve Order Number X-XX, dated 6 Feb 69, the applicant was honorably discharged from the Air Force Reserve in the rank of staff sergeant.

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

AIR FORCE EVALUATION

ARPC/DPTS recommends denying the application. There is no evidence of an error or injustice within the applicant's military record for the requested correction. According to the Total Force Personnel Service Delivery Guide, *DD Form 214, Certificate of Release or Discharge from Active Duty*, Section E: Specific Procedures, the grade or rank indicated on the DD Form 214 is reflected as "Active Duty grade held at close out date of the DD Form 214." The rank held by the applicant at the date of separation from active duty was airman third class.

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 24 Feb 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 ARPC/DPTS and finds a preponderance of the evidence does not substantiate the applicant's contentions. The board found the applicant's grade on the DD Form 214 was commensurate with his grade at the time of his discharge from active duty. 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)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence. 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-2021-03906 in Executive Session on 29 Sep 22:

Work-Product, Panel Chair
Work-Product, Panel Member
Work-Product, Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 16 Dec 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, ARPC/DPTS, w/atchs, dated 31 Jan 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 24 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