

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 August 2023

DOCKET NUMBER: AR20230000396

APPLICANT REQUESTS: correction of rank to reflect staff sergeant (SSG)/E-6 based on his highest grade held.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Certificate, 21 July 1984
- Certificate, 23 September 1984
- DA Form 1059 (Service School Academic Evaluation Report), 23 September 1984
- Certificate of Appreciation, 10 January 1987
- Memorandum – Subject: Award of the Armed Forces Reserve Medal (1st Award), 20 September 1987
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 26 September 1987
- DD Form 214, 27 March 1994

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states in pertinent part that his retired rank should be corrected to reflect SSG rather than specialist (SPC)/E-4. The applicant contends that he served at the rank of SSG while in the U.S. Army Reserve (USAR) for 3 years prior to being administratively reduced to SPC to enlist in the Regular Army.
3. A review of the applicant's available service records reflects the following:
 - a. On 11 September 1976, the applicant enlisted in the USAR.

b. On 12 January 1985, Headquarters, 6219th U.S. Army Reception Station issued Orders Number 13-4 announcing the applicant's promotion to the rank of SSG, effective 11 January 1986.

c. On 8 March 1988, the applicant enlisted in the Regular Army at the rank of private (PV2)/E-2.

d. On 14 March 1988, the applicant retroactively requested to be discharged from the USAR to enlist in the Regular Army.

e. On 11 April 1988, Headquarters, Fifth U.S. Army issued Orders Number 69-134 discharging the applicant from the USAR at the rank of SSG on 7 March 1988.

f. On or about 1 July 1989, the applicant was advanced in grade/rank to SPC.

g. On 27 March 1994, the applicant was permanently medically retired from active duty at the rank of SPC.

h. On 21 April 1994, the U.S. Total Army Personnel Command issued Orders Number D75-21 releasing the applicant from assignment and duty at the rank of SPC, because of a physical disability incurred while entitled to basic pay.

4. The applicant provides the following a:

a. Certificate dated 21 July 1984, reflective of the applicant being recognized, at the rank of specialist fifth class (SP5), for his performance of duty during the 7-21 July 1984 mobilization exercise.

b. Certificate, 23 September 1984, reflective of the applicant's completion of the Basic Course for Reserve Component Noncommissioned Officers at the rank of SP5.

c. DA Form 1059, reflective of the applicant's completion of the Basic Noncommissioned Officers Course from 5 May 1984 – 23 September 1984. The applicant was a SP5 during this course.

d. Certificate of Appreciation dated 10 January 1987, reflective of the applicant being recognized at the rank of SSG for his performance of duty during the preparation and serving of the holiday meal.

e. Memorandum – Subject: Award of the Armed Forces Reserve Medal (AFRM) (1st Award), 20 September 1987, reflective of the applicant being authorized the AFRM in recognition of his completion of 10 years of reserve service.

f. DD Form 214 (Certificate of Release or Discharge from Active Duty), 26 September 1987, reflective of the applicant's service on active duty from 24 May 1987 – 26 September 1987. Item 4a./4b. (Grade, Rate or Rank/Pay Grade) reflects "SSG/E-6."

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board determined that relief was warranted. The Board carefully considered the applicant's contentions, the military record, and regulatory guidance. The Board reviewed documentation reflective of the applicant's awards and recognitions, statement of service showing his rank as SSG and his DD214 for period ending 26 September 87 reflecting the requested rank. In accordance with applicable code, as his active service plus his service on the retired list totals 30 years, his record should be corrected to show the highest grade held satisfactorily while on active duty. Based on the preponderance of the documentation available for review, the Board determined the evidence presented sufficient to warrant a recommendation for relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
■	■	■	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected to show the highest grade held as Staff Sergeant (SSG/E-6).

[REDACTED]

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, USC, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. Title 10 USC, Section 3964 (Higher Grade after 30 years of service: Warrant Officers and Enlisted Members) provides that each retired member of the Army covered by subsection (b) (Reserve enlisted members) who at the time of retirement, are serving on active duty is retired with less than 30 years of active service is entitled, when his active service plus his service on the retired list totals 30 years, to be advanced on the retired list to the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the Army.
3. Title 10 USC, Section 3963 (Highest Grade held Satisfactorily: Reserve Enlisted Members Reduced in Grade not as a Result of the Members Misconduct) provides that a Reserve enlisted member of the Army who, at the time of retirement is serving on active duty in a grade lower than the highest enlisted grade held by the member while on active duty and was previously administratively reduced in grade not as a result of the member's own misconduct, who is retired under section 3914 of this title shall be retired in the highest enlisted grade in which the member served on active duty satisfactorily (or, in the case of a member of the National Guard, in which the member served on full-time National Guard duty satisfactorily), as determined by the Secretary of the Army.

//NOTHING FOLLOWS//