

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 September 2023

DOCKET NUMBER: AR20230001649

APPLICANT REQUESTS:

- correction of item 6 (Date of Rank (DOR)) and item 23a (Specialty Number and Title) on his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) ending on 12 March 1971
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, 12 March 1971
- Clinical Record Cover Sheet, 12 March 1971
- DA Form 20 (Enlisted Qualification Record) page 3

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 his DOR is incorrect. He was promoted to first cook on 16 May 1970. See attached DA Form 20, item 38 (Record of Assignments). His pay grade of E-5 would be effective the same day. He just wants item 6 of his DD Form 214 to be correct. He also requests to change item 23a to "94B2P" to correspond to 1st Cook.

3. A review of the applicant's military record shows the following:

a. The applicant enlisted in the Regular Army on 29 February 1968. He successfully completed training and he was awarded Military Occupational Specialty (MOS) 94B (Cook).

b. DA Form 20 shows in:

- item 2 (Grade) - specialist five (SP5)/E-5
- item 3 (DOR) - 9 August 1970
- item 38 (Record of Assignments) - effective 16 May 1970, his duty MOS was "94B2P" and his principal duty was "1st Cook"
- item 41 (Awards and Decorations) - he was awarded the Parachutist Badge

c. Special Orders Number 198 awarded the applicant the Parachutist Badge and Airborne MOS Special Qualification Identifier "P" (Parachutist), effective 16 August 1968.

d. On 20 August 1970, Headquarters, 173rd Airborne Brigade published Special Orders Number 232 which appointed/promoted the applicant to SP5/E-5, effective on with a DOR of 9 August 1970. MOS in which promoted was "94B2P."

e. On 12 March 1971, the applicant was honorably released from active duty and transferred to the U.S. Army Reserve Control Group (Reinforcement). DD Form 214 shows in:

- item 5a (Grade, Rate or Rank) - SGT
- item 5b (Pay Grade) - E-5
- item 6 (DOR) - 9 August 1970
- item 23a (Specialty Number and Title) - "94B20 Cook"
- item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) - he was awarded the "Parachute Badge"

4. The applicant provides:

a. Clinical Record Cover Sheet dated 12 March 1971, which shows his personal and admission data with admission notes.

b. A copy of DA Form 20 page 3, which shows he wrote that his SGT DOR of 9 August 1970 was incorrect. His principal duty as a 1st Cook/kitchen supervisor was five months earlier on 16 May 1970.

BOARD DISCUSSION:

1. The applicant's request for a personal appearance was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance before the Board is not necessary to serve the interest of equity and justice in this case.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's contentions, the military record, and regulatory guidance. The Board found sufficient evidence that the applicant had been awarded the Military Occupational Specialty of "94B2P" and his principal duty was "1st Cook" and agreed that a correction was warranted.

3. Prior to closing the case the Board found evidence for relief not otherwise requested. The Board found that as he received "excellent" conduct and efficiency ratings throughout his service and, in the absence of evidence that would otherwise make him ineligible, his record should be corrected to show the award of the Army Good Conduct Medal.

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. Army Regulation (AR) 635-5 (Separation Documents) in effect at that time, prescribes the separation documents that will be furnished each individual who is separated from the Army. Section III (Instructions for preparation and distribution of the DD Form 214) states:

a. The instructions for item 6 (DOR) state to enter DOR for the grade shown in item 5a (Grade, Rate or Rank). If DOR is different from date of appointment, enter date of appointment in item 30 (Remarks) as shown in paragraph 62. If grade at time of separation is not permanent, the permanent grade, date of appointment, and date of rank, if different from date of appointment, will be entered in item 30.

b. For item 23a (Specialty Number and Title) enter primary MOS code number and title.

3. AR 15-185 (ABCMR), states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. It will decide cases based on the evidence of record and it is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. Paragraph 2-11 states that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//