

IN THE CASE OF: ██████████

BOARD DATE: 16 November 2023

DOCKET NUMBER: AR20230003683

APPLICANT REQUESTS: correction to his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending 7 January 1971 to reflect the rank/grade of sergeant (SGT)/E-5 vice specialist four (SP4)/E-4.

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

- DD Form 149 (Application for Correction of Military Record)
- Congressional Privacy Release Form
- Unit Orders Number 96, 19 August 1970
- DD Form 214, ending 7 January 1971

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, he was promoted to the rank/grade of SGT/E-5 prior to his discharge and wants his records amended to reflect that.
3. A review of the applicant's available service record reflects the following:
 - a. On 8 January 1969, he was inducted into the Army of the United States.
 - b. DA Form 20 (Enlisted Qualification Record), Item 33 (Appointments and Reductions) reflects:
 - Private (PVT)/E-1 Permanent (P), effective 8 January 1969
 - Private (PV2)/E-2 (P), effective 8 March 1969
 - Private First Class (PFC)/E-3 (P), effective 11 June 1969
 - SP4/E-4 Temporary (T), effective 9 December 1969
 - c. On 31 December 1969, Headquarters, 25th Infantry Division issued Special

Orders Number 365 promoting him to the rank/grade of SP4/E-4.

d. On 19 August 1970, Headquarters, 5th Battalion, 31st Infantry (The Polar Bears) issued Unit Orders Number 96, appointing him to the acting rank/grade of SGT/E-5.

e. DD Form 214, ending 7 January 1971 reflects an honorable release from active duty and transfer to the U.S. Army Reserve (USAR) Control Group (Annual Training) with service from 8 January 1969 to 7 January 1971 for a net active service this period of 2 years. Item 5a (Grade/Rate or Rank) reflects SP4 and item 6 (Date of Rank) reflects 9 December 1969.

f. On 18 December 1974, the Office of the Adjutant General, U.S. Army Reserve Components Personnel and Administration Center issued Letter Orders Number 12-1370683 honorably discharging him from the Standby Reserve, effective 1 January 1975 at the rank of SP4.

4. The applicant provides a Congressional Privacy Release form allowing Senator M-B- to act on his behalf.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found partial relief is warranted.

2. The Board noted the applicant was appointed as an acting SGT/E-5, but was not actually promoted to that rank and would have continued to receive pay in pay grade E-4. Further, although the record does not document termination of his appointment as an acting SGT/E-5, this appointment would have ended when he left his unit upon his release from active duty. That being the case, the Board determined the rank and grade recorded on his DD Form 214 are correct.

3. The Board did find, however, that his appointment as an acting SGT/E-5 could be memorialized in the remarks block of his DD Form 214. The Board determined it would be appropriate to make that entry in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

█ █ █ GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

: : : DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by adding the following to item 30 (Remarks) of his DD Form 214: "Appointed as acting SGT/E-5 effective 19 August 1970."

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to any relief in excess of that described above.

2/16/2024

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CHAIRPERSON



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 Army Board for Correction of Military Records (ABCMR) determines it would be in the interest of justice to do so.
2. Army Regulation (AR) 635-5 (Separation Documents) in effect at the time prescribes the separation documents that will be furnished each individual who is separated from the Army. Source documents will consist of DA Form 20 and orders. Item 5a; enter the grade in which serving at the time of separation, indicating whether permanent or temporary. Item 30; if grade as shown in item 5 is not permanent, enter permanent grade, date of appointment, and date of rank if different from date of appointment.
3. AR 600-200 (Enlisted Personnel Management System) in effect at the time states:
 - a. Section 7-3 (Authority to promote) states pay grades E-5 and E-6. Field grade commanders of any organization which is authorized a commander in the grade of lieutenant colonel or higher may promote assigned personnel to pay grades E-5 and E-6.
 - b. Section 7 (Appointment of Acting Non-Commissioned Officers (NCO's)), sub section 7-52 (Units), Company, troop, battery, and separate detachment commanders. may appoint qualified soldiers as acting corporals, E-4, and sergeants, E-5. They will serve in vacant positions in their units at their present or higher grade. This includes those caused by temporary –absences of assigned NCOs. For acting corporal, E-4, and sergeant/E-5, the Soldier may not be more than one grade lower than the one to which appointed.

//NOTHING FOLLOWS//