

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 December 2023

DOCKET NUMBER: AR20230004403

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 18 April 2004 to reflect the rank/grade of staff sergeant (SSG)/E-6 rather than sergeant (SGT)/E-5.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, 18 April 2004
- Certificate of Eligibility for S.C. National Guard (SCNG) Retirement Pension, 5 April 2006
- DD Form 2656 (Data for Payment of Retired Personnel), 22 May 2008

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 he served as a SSG for most of his time in service. He contests that he was retired at the rank of SSG and receives pay as a SSG and would therefore like his DD Form 214 to reflect the like.
3. A review of the applicant's available service records reflects the following:
 - a. On 15 January 1977, the applicant enlisted in the South Carolina Army National Guard (SCARNG) to serve as a combat engineer.
 - b. On 1 November 1984, the SCARNG issued Orders Number 26-3 announcing the applicant's promotion to the rank/grade of SSG/E-6.
 - c. On 20 April 1995, the applicant was issued a Notification of Eligibility for Retired Pay at Age 60 (20 Year Letter).

d. On 19 January 1996, the SCARNG issued Orders Number 1-2 announcing the applicant's reduction in rank from SSG/E-6 to sergeant (SGT)/E-5, effective 19 January 1996 with a date of rank of 1 October 1978 in accordance with National Guard Regulation (NGR) 600-200 (Enlisted Personnel Management System), paragraph 6-44(f.) (Unsatisfactory Participant).

e. On 10 February 2003, the SCARNG issued Orders Number 041-559 ordering the applicant to active duty in support of Operation Enduring Freedom, effective 10 February 2003, for a period not to exceed 365 days. The applicant was addressed at the rank of SGT.

f. The applicant entered active duty on 10 February 2003. He served in Kuwait/Iraq from 16 April 2003 to 4 March 2004.

g. On 9 March 2004, Headquarters, 3rd Infantry Division (Mechanized) and Fort Stewart issued Orders Number 069-0115 releasing the applicant from active-duty, effective 18 April 2004, at the rank of SGT/E-5.

h. On 18 April 2004, the applicant was released from active duty. DD Form 214, item 4a. (Grade, Rate or Rank) reflects "SGT"; item 12h. (Effective Date of Pay Grade) reflects "19 January 1996."

i. On 14 January 2005, the applicant was honorably released from the ARNG and transferred to the Retired Reserve at the rank of SGT. National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service), item 5a. (Rank) reflects "SGT"; item 6 (Date of Rank) reflects "1 October 1978."

j. On 15 March 2005, the SCARNG issued Orders Number 074-818 honorably discharging the applicant from the ARNG, effective 14 January 2005, at the rank of SGT/E-5.

k. On 16 March 2005, the applicant was issued a Certificate of Eligibility for SCARNG Retirement Pension. This document reflects the applicant's separation at the rank of SGT with an Honorary Retirement Grade of SSG.

l. On 26 March 2005, the SCARNG issued Permanent Orders Number 084-006 reflective of the applicant's relief from the ARNG and placement on the State Retired List at the honorary rank of SSG, effective 15 January 2005. This order was later changed to reflect the Honorary Retired Grade of Sergeant First Class (see 3m. below)

m. On 19 May 2005, NGB Form 22A (Department of the Army and the Air Force National Guard Bureau Correction to NGB Form 22) was issued reflective of NGB Form 22 for the period ending on 14 January 2005 being amended to reflect the applicant's rank as "SSG", pay grade "E-6."

n. On 5 April 2006, the applicant was issued a Certificate of Eligibility for SCARNG Retirement Pension. This document reflects the applicant's separation at the rank of SSG with an Honorary Retirement Grade of SFC.

4. The applicant provides a DD Form 2656 dated 22 May 2008, reflective of the applicant's election to participate in the Survivor Benefit Plan. The applicant's rank reflects "SSG."

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant entered active duty on 10 February 2003 in the grade of SGT/E-5 and he was honorably released from active duty on 18 April 2004, also in the grade of SGT/E-5. He did not hold the rank/grade of SSG/E-6 during this period of active service. The DD Form 214 reflects and facts and circumstances at the time the separation document was prepared. As such, the Board determined the rank/grade of SGT/E-5 and effective date of pay grade listed on his DD Form 214 was not in error or unjust.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
█	█	█	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

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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. Army Regulation (AR) 635-5 (Separation Documents) in effect at the time, states that separation documents provide a record of a service members military service. The DD Form 214 will reflect the conditions and circumstances that existed at the time the records were created. The purpose of the separation document is to provide the individual with documentary evidence of his or her military service at the time of release from active duty, retirement, or discharge. It is important that information entered on the form be complete and accurate and reflects the conditions as they existed at the time of separation. All available records will be used as a basis for the preparation of DD Form 214, including DA Form 2-1 (Personnel Qualification Record), and orders. Item 4a./b. (Grade, Rate or Rank/Pay Grade) will reflect the active-duty grade or rank and pay grade at time of separation from the Enlisted Record Brief or DA Form 2-1.
3. Army Regulation (AR) 15-185 (ABCMR) paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//