

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 December 2023

DOCKET NUMBER: AR20230004642

APPLICANT REQUESTS: in effect –

- correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) ending on 25 June 1966 to show his rank/grade as private first class (PFC)/E-3
- to receive backpay based on the correction of his rank to PFC and when he was promoted to the rank/grade of private (PV2)/E-2

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, 25 June 1966
- Letter of Commendation, 14 June 1966
- Certificate of Achievement, 15 June 1966

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 effect, he served in Vietnam as a private (PV2)/E-2 from 22 September 1965 through 25 June 1966; however, while serving in Vietnam he got paid as a private (PVT)/E-1. Reference copies attached. He provides a certificate of achievement which shows his rank as PFC for the period of 19 July 1965 to 22 June 1966, and a letter of commendation dated 14 June 1966 which shows his rank as PFC, yet all the time in Vietnam he was paid as a PVT/E-1.

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

a. He was inducted into the Army of the United States on 30 July 1964. His DA Form 20 (Enlisted Qualification Record) shows in:

- Item 33 (Appointments and Reductions), his grade and Date of Rank (DOR) as follows –
 - PVT/E-1, 30 July 1964
 - PVT/E-2 (Permanent (P)), 30 November 1964
 - PFC/E-3 (P), 6 April 1965
 - "PVT/E-2 (P) [P] 22 September 1965"
- Item 31 (Foreign Service) – he served in Vietnam from 20 October 1965 to 24 June 1966
- Item 44 (Time Lost Under Section 972, Title 10, United States Code and Subsequent to Normal Date Expiration Term of Service) – the applicant was absent without leave for "13" days from "9 to 21 September 1965"

b. On 6 April 1965, the 564th Ordnance Company (GS), Fort Riley, KS, published Unit Orders Number 13 which appointed/promoted the applicant to the permanent grade of PFC/E-3.

c. Special Orders Number 176 published by the U.S. Army Personnel Center, Oakland, CA, released the applicant from active duty and transferred him to the U.S. Army Reserve (USAR) Control Group (Annual Training (AT)) on 25 June 1966. The orders list his rank as PFC/E-3.

d. On 25 June 1966, DD Form 214 shows the applicant was honorably released from active duty and transferred to the USAR Control Group (AT). He completed 1 year, 10 months, and 13 days net service this period. It also shows in:

- Item 3a (Grade, Rate or Rank) – "PVT E-2 (P)"
- Item 3b (DOR) – 22 September 1965
- Item 32 (Remarks) – 13 days lost time from 9 to 21 September 1965

e. Letter Orders Number 07-1032230 published by the Office of the Adjutant General, U.S. Army Administration Center, St. Louis, MO, honorably discharged him from the Standby Reserve, effective 29 July 1970. The orders list his rank as PV2/E-2.

4. The applicant provides a letter of commendation dated 14 June 1966 and certificate of achievement dated 15 June 1966 which shows his rank as PFC.

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

applicant contends he served in Vietnam as a PV2/E-2 from 22 September 1965 to 25 June 1966; and that while serving in Vietnam he got paid as a private (PVT)/E-1. The evidence of records shows the applicant served on active duty from 30 July 1964 to 25 June 1966. He was promoted to PV2/E-2 on 30 November 1964. He served in Vietnam from 20 October 1965 to 24 June 1966 and he was promoted to PFC/E-3 on 6 April 1965. He also had 13 days of lost time from 9 to 21 September 1965 which apparently triggered his reduction to PV2/E-2 on 22 September 1965. After Vietnam, he was reassigned to Fort Riley, KS where he was advanced to PFC/E-3 on 6 April 1965. However, he was again reduced to PV2/E-2 on 25 June 1966 and he held this rank/grade upon his release from active duty on 25 June 1966. The applicant does not provide evidence of an error or injustice. His service record documented his advancement and reductions. If the applicant can provide his contemporaneous pay vouchers, he may reapply to this Board for reconsideration.

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.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[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. Army Regulation (AR) 15–185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. In pertinent part, it states that 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. The ABCMR will decide cases based on the evidence of record. The ABCMR is not an investigative agency.
3. AR 635-5 (Separation Documents) states all available records will be used as a basis for the preparation of DD Form 214A (Worksheet), including DA Form 24 (Service Record), DA Form 20 (Enlisted Qualification Record), and orders. The instructions for the preparation of the DD Form 214 state:
 - a. For item 3a (Grade, Rate or Rank) enter grade in which serving at time of separation, indicating whether permanent (P) or temporary (T). Pay grades will also be shown.
 - b. For item 3b (Date of Rank) enter date of rank for the grade shown in item 3a. (1) If date of rank is different from date of appointment, enter date of appointment in item 32 (Remarks) as shown in paragraph 63b (6). (2) 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 32 (Remarks) as shown in paragraph 63b(7).
4. Title 31, USC, section 3702, also known as the barring act, prohibits the payment of a claim against the Government unless the claim has been received by the Comptroller General within 6 years after the claim accrues. Among the important public policy considerations behind statutes of limitations, including the 6-year limitation for filing claims contained in this section of Title 31, USC, is relieving the government of the need to retain, access, and review old records for the purpose of settling stale claims, which are often difficult to prove or disprove.

//NOTHING FOLLOWS//