

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 January 2024

DOCKET NUMBER: AR20230005974

APPLICANT REQUESTS: correction to his service record to reflect promotion to the rank/grade of corporal (CPL)/E-4 and sergeant (SGT)/E-5.

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

- DD Form 149 (Application for Correction of Military Record)
- Personal Statement
- Operator's Permit and Traffic Violation
- Honorable Discharge Certificate, 31 August 1961

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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:

a. On 26 January 1955 he was assigned to drive a unit captain (CPT) to a meeting for the Regimental commander. He went to the motor pool at the 47th Infantry Regiment and checked out a Ford Tanus to drive from Ulm, Germany to Augsburg, Germany 49.8 miles or 80.14 Kilometers. The motor pool Soldiers had trouble getting the car ready, so he was late picking up the CPT. The CPT told him that he had to be in Augsburg at a certain time, so he would have to drive over the speed limit to make sure they got there in time. He notified the CPT that he might get a citation for speeding from the Military Police (MP), as they patrolled the Autobahn there in Germany. The CPT told him not to worry about it that he would take care of it. As it turned out, he did get a ticket, (see attachment) and he was given a carbon copy of the ticket.

b. Although they arrived late for the meeting, it had been extended an additional hour, thus allowing them to arrive a few minutes early. He trusted that the CPT would take care of the ticket as he said he would. However, when he went in to see the unit Colonel (COL), to be promoted to CPL, he was denied because of the ticket he

received. The COL gave him the nickname "Barney" based off an old race car driver from the early 1900's.

c. A friend of his, and fellow Soldier, who he joined the Army with and started basic training with at Fort Ord, CA, were both assigned the same military occupational specialty, and ended up in Ulm, Germany at the same time, was promoted to CPL the same day he should have been and later he was promoted to SGT.

d. He believes that he should have been promoted to CPL and not by-passed due to a speeding ticket that was not his fault. He also should have been promoted to SGT the same day his friend was. He was a good Soldier and stayed out of trouble his entire tour in the Army. He always obeyed any orders he was given, either by an enlisted Noncommissioned Officer (NCO) or an officer. In this case he only did what he was commanded to do and nothing else.

3. A review of the applicant's available service record reflects the following:

a. On 12 August 1953, he was inducted into the Army of the United States.

b. DA Form 20 (Enlisted Qualification Record), item 45 (Grade Status) shows his highest rank achieved as private first class (PFC)/E-3, effective 22 June 1954.

c. DA Form 24 (Service Record) Section 1 (Appointments, Promotions, or Reductions) shows:

- PFC (Temporary (T)), effective 14 June 1955
- PFC (Permanent (P)), effective 15 June 1955

d. DD Form 214 (Report of Separation from the Armed Forces of the United States), ending 14 June 1955 reflects an honorable release from active duty and transfer to the U.S. Army Reserve with service from 12 August 1953 to 14 June 1955 for a net service completed for pay purposes this period of 1 year, 10 months, and 3 days. Item 3 (Grade, Rate, Rank, and Date of Appointment) shows PFC (P), effective 22 June 1954.

4. The applicant provides the following:

a. Operator's Permit and Traffic Violation showing his authorization to operate Government vehicles and his violation he received for speeding while assigned to the unit.

b. Honorable Discharge Certificate, dated 31 August 1961 showing his discharge from the U.S. Army Reserve at the rank/grade of PFC/E-3.

BOARD DISCUSSION:

After reviewing the application, all supporting documents and the evidence found within the military record, the Board determined that relief not warranted. The Board carefully considered the applicant's contentions, military record, and applicable regulatory guidance. The Board considered the period of the applicant's service. The Board considered applicable regulatory guidance on the appointment of enlistees who meet minimum consideration for appointments. The Board considered the applicant's assertion that he would have been otherwise promoted. Beyond that assertion that he would have been otherwise promoted, the Board determined the evidence presented does not meet the burden of proof in determining the existence of an error or injustice and a recommendation for relief is not warranted.

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 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. War Department Technical Manual 12-236 (Preparation of Separation Forms) provided that the appropriate separation form would be prepared for all enlisted personnel separated from the service by reason of discharge, retirement, or release from active duty or transfer to a Reserve Component. This manual stated that item 3 shows the grade held by the service member at the time of separation.
3. Army Regulation 615-5 (Enlisted Men Appointment and Reduction of Noncommissioned Officers and Privates, First Class) states the commanding officer of a unit to which allotment of grades is authorized by the War Department will determine and suballot a definite proportion to his subordinate commanders authorized to make appointments. Commanding officers authorized in paragraph 6 to appoint privates, first class, may waive the requirement of an authorized vacancy to appoint to that grade, at their discretion, enlisted men or women who have completed 1 year of satisfactory service, or have served or are serving outside of the continental limits of the United States. Regimental commanders may promote to the noncommissioned officer grades. Army commanders may appoint within their jurisdiction, noncommissioned officers. Commanding officers of posts and other installations, in cases not specified above, will appoint noncommissioned officers under their jurisdiction.

//NOTHING FOLLOWS//