

IN THE CASE OF: ██████████

BOARD DATE: 18 January 2024

DOCKET NUMBER: AR20230006019

APPLICANT REQUESTS:

- correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending on 7 May 1991 to reflect the rank/grade of sergeant (SGT)/E-5 rather than specialist (SPC)/E-4
- a personal appearance before the Board via video or telephone

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

DD Form 149 (Application for Correction of Military Record)

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 he received a letter from the Department of the Army upon his return from serving in support of Operation Desert Storm reflective of his promotion to the rank/grade of SGT/E-5, effective April 1991.
3. A review of the applicant's available service records reflects the following:
  - a. On 5 February 1986, the applicant enlisted in the Regular Army at the rank/grade of private (PVT)/E-1 for 3 years.
  - b. On 1 September 1987, the applicant was advanced to the rank/grade of SPC/E-4.
  - c. On 8 November 1988, Headquarters 101st Airborne Division (Air Assault) and Fort Campbell issued Orders Number 215-21 reassigning the applicant to the transition point pending release from active duty.

d. On 4 February 1989, the applicant was released from active duty at the rank/grade of SPC/E-4 and transferred into the U.S. Army Reserve (USAR) Control Group (Reinforcement).

e. On 14 January 1991, the applicant was ordered to active duty in support of Operation Desert Shield/Desert Storm.

f. On 7 May 1991, Headquarters, U.S. Army Air Defense Artillery Center and Fort Bliss, issued Orders Number 88-80 releasing the applicant from active duty at the rank/grade of SPC/E-4. DD Form 214, item 4a./b. (Grade, Rate or Rank/Pay Grade) reflects "SPC/E-4"; item 12h. (Effective Date of Pay Grade) reflects "1 September 1987."

g. On 27 January 1992, a DD Form 215 (Correction to DD Form 214 Certificate of Release or Discharge from Active Duty) was issued for the DD Form 214 ending on 7 May 1991 to reflect several corrections, none of which were related to the applicant's rank as SGT/E-5. However, noted on this document is the correction of item 4b. (Pay Grade) to reflect "E-4" – this information is already reflected on the corresponding DD Form 214.

h. On 8 February 1994, the U.S. Army Reserve Personnel Center issued Orders Number D-02-412889 discharging the applicant from the USAR at the rank/grade of SGT/E-5, effective 8 February 1994.

4. A review of the applicant's information currently reflected within the Soldier Management Services – Web Portal (SMS Web) reflects evidence of the applicant's date of rank to SGT as "2 April 1991." The applicant did not provide nor does review of his available service records contain orders announcing the applicant's promotion to SGT.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, a majority of the Board found relief is warranted. The Board found the available evidence sufficient to consider this case fully and fairly without a personal appearance by the applicant.

2. A majority of the Board found the entry in SMS Web sufficient to confirm the applicant had been promoted to SGT prior to his release from active duty in May 1991. A majority of the Board determined his DD Form 214 for the period ending should be corrected to show he held the rank/grade of SGT/E-5 with an effective date of pay grade of 2 April 1991.

3. The member in the minority found the entry in SMS Web insufficient as a basis for the requested correction, noting that the orders promoting the applicant to SGT/E-5 are not available. The member in the minority determined the evidence does not support correction of the DD Form 214 for the period ending 7 May 1991.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending his DD Form 214 for the period ending 7 May 1991 as follows:

- Replace the entry in item 4a with "SGT"
- Replace the entry in item 4b with "E-5"
- Replace the entry in item 12h with "91 04 02"

4/15/2024

X

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 ABCMR determines it would be in the interest of justice to do so.
2. Army Regulation (AR) 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the 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. Additionally, it states in paragraph 2-11 that applicant's do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.
3. AR 635-5 (Separation Documents) states that 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. Personnel officers will prepare and authenticate DD Form 214 prior to forwarding records to the transfer facility. 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 service members rank and pay grade at the time of separation.

//NOTHING FOLLOWS//