

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 February 2024

DOCKET NUMBER: AR20230006305

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the U.S. Report of Transfer or Discharge), item 5a./b. to reflect the rank of sergeant (SGT)/E-5 rather than specialist four (SP4)/E-4.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, 14 August 1971
- Special Orders Number 229, 17 August 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 presented himself before the E-5 promotion board while stationed overseas. He contests that a few months after he was discharged, he received orders reflective of his promotion to SGT.
3. A review of the applicant's available personnel records reflects the following:
 - a. On 21 August 1969, the applicant was inducted into the Army of the United States at the rank of private (PVT)/E-1, to serve as a 95B (Military Policeman).
 - b. On or about 11 June 1970, the applicant was reassigned to the Republic of Korea and subsequently assigned to the 728th Military Police Battalion.
 - c. On or about 16 September 1970, the applicant was advanced to the rank of SP4.
 - d. On or about 13 August 1971, the applicant was reassigned to the U.S. pending release from active duty.

e. On 14 August 1971, Headquarters, U.S. Army Personnel Center issued Orders Number 226 relieving the applicant from active duty at the rank of SP4. DD Form 214, item 5a./b. reflects "SP4/E-4"; item 6 (Date of Rank) reflects "16 September 1970."

f. On 23 July 1975, the U.S. Army Reserve Components Personnel and Administrative Center issued Letter Orders Number 07-1223515 honorably discharging the applicant from the U.S. Army Reserve Control Group (Standby) at the rank of SP4 on 1 August 1975.

4. The applicant provides Special Orders Number 229 dated 17 August 1971, reflective of the applicant being appointed/promoted to the rank of SGT, effective 17 August 1971.

5. A review of the applicant's service record contains sufficient evidence to support administrative corrections that are not annotated on his DD Form 214 for the period ending 14 August 1971. These omissions will be added to his DD Form 214 as administrative corrections and will not be considered by the Board, to show in item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized); Korea Defense Service Medal (KDSM)

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military records, the Board determined the applicant was release from active duty on 14 August 1971. The promotion orders provided show an effective date of 17 August 1971, which is four days after the applicant's release. The Board determined the applicant's DD Form 214 is correct with the rank of specialist, it is outside the Board purview to correct the applicant's DD Form 214 by the four-day difference from the applicant's release from active duty and his promotion orders. Furthermore, the Board agreed the request for relief has no merit as the available evidence does not support the applicant was ever promoted to the rank of sergeant prior to his discharge. As such, the Board denied relief.

2. The Army has an interest in maintaining the integrity of its records for historical purposes. The information in those records must reflect the conditions and circumstances that existed at the time the records were created. In the absence of evidence that shows a material error or injustice, there is a reluctance to recommend that those records be changed.

3. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

Except for the correction addressed in Administrative Note(s) below, the Board found 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.

4/4/2024

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.

ADMINISTRATIVE NOTES:

A review of the applicant's records shows he is authorized additional awards not annotated on his DD Form 214 for the period ending 14 August 1971. As a result, amend his DD Form 214 by adding: Korea Defense Service Medal.

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 635-5 (Separation Documents) in effect at the time 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 20 (Enlisted Qualification Record) and orders. Item 5a./b. (Grade, Rate or Rank/Pay Grade) will reflect the service members rank and pay grade at the time of separation.

//NOTHING FOLLOWS//