

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 12 January 2024

DOCKET NUMBER: AR20230006427

APPLICANT REQUESTS: correction of his DD Form 214 (Report of Separation from Active Duty), ending 15 January 1974, to show his rank/grade as sergeant (SGT)/E-5 vice specialist four (SP4)/E-4. A personal appearance before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- Personal Statement
- Unit Orders Number 44, 3 July 1972
- Letter of Commendation, 14 August 1972
- 1st Armored Division Non-Commissioned Officer (NCO) Academy Certificate, 9 February 1973
- Letter for Graduating Class 73NCO-4, 9 February 1973
- Graduation Roster Class 73NCO-4 (NCO Course), 9 February 1973
- DD Form 214, ending 15 January 1974

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, on 3 July 1972 he was promoted to acting SGT, and on 14 August 1972, he received a Letter of Commendation for the best squad in the "Battalion 81-millimeter Motor Squad Proficiency Test." Then on 9 February 1973 he completed the 1st Armored Division Noncommissioned Officer Academy course. During this time, he worked with the Military Police as a "UP" in charge of base security and served in positions of both a squad leader and a platoon leader. He served as an acting SGT for approximately 18 months with his unit before honorably separating from service. Despite completing the course and holding the position of acting SGT, he was told that he could not be permanently promoted to the rank of SGT because he did not have enough time left on his enlistment.

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

a. On 21 January 1971, he enlisted in the Regular Army.

b. DA Form 20 (Enlisted Qualification Record), item 33 (Appointments and Reductions) shows his date of rank as follows:

- Private (PVT)/E-1, effective 21 January 1971
- Private (PVT)/E-2, effective 19 April 1971
- Private first class (PFC)/E-3, effective 28 May 1971
- Specialist four (SP4)/E-4, effective 7 March 1972

c. On 3 July 1972, Company C, 2nd Battalion, 51st Infantry, 1st Armored Division, issued Unit Orders Number 44 appointing him as acting NCO, acting SGT.

d. DD Form 214, ending 15 January 1974, reflects an honorable release from active duty and transfer to the U.S. Army Reserve (USAR) Control Group (Reinforcement) with service from 21 January 1971 to 15 January 1974 for a net active service this period of 2 years, 11 months, and 25 days. Item 6a (Grade, Rate, or Rank) shows "SP4."

e. On 22 December 1976, the Office of the Adjutant General, Reserve Components Personnel and Administration Center issued Orders Number 12-1208194 honorably discharging him from the Standby Reserve, effective 20 January 1977, in the rank of SP4.

4. The applicant provides the following:

a. Letter of Commendation, dated 14 August 1972 showing he was awarded recognition for the best squad in the Battalion 81-millimeter Motor Squad Proficiency Test.

b. The following documentation showing he completed the NCO Course on 9 February 1973, course number 73NCO-4:

- 1st Armored Division NCO Academy Certificate
- Letter for Graduating Class 73NCO-4
- Graduation Roster Class 73NCO-4 (NCO Course)

**BOARD DISCUSSION:**

1. The applicant's request for a personal appearance was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance before the Board is not necessary to serve the interest of equity and justice in this case.
  
2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's contentions, the military record, and regulatory guidance. The Board noted that the applicant had successfully completed the Noncommissioned Officers Course and that he was issued Unit Orders appointing him as acting NCO. However, documentation available for review does not reveal published orders permanently promoting the applicant to Sergeant as required by applicable regulatory guidance. After due consideration of the case, the Board determined the evidence presented insufficient to warrant a recommendation for relief.
  
3. Prior to closing the case, the Board noted that the applicant's record reflects all "excellent" for conduct and efficiency and agreed he is eligible for the award of the Army Good Conduct Medal and a correction to his record is warranted.

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 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 prescribes the separation documents that will be furnished each individual who is separated from the Army. Source documents will consist of DA Form 20. Item 6a; enter the grade in which serving at the time of separation.
3. AR 600-200 (Enlisted Personnel Management System) in effect at the time states:
  - a. Section 7-3 (Authority to promote) states pay grades E-5 and E-6. Field grade commanders of any organization which is authorized a commander in the grade of lieutenant colonel or higher may promote assigned personnel to pay grades E-5 and E-6.
  - b. Section 7 (Appointment of Acting Non-Commissioned Officers (NCO's)), sub section 7-52 (Units), Company, troop, battery, and separate detachment commanders. may appoint qualified soldiers as acting corporals, E-4, and sergeants, E-5. They will serve in vacant positions in their units at their present or higher grade. This includes- those caused by temporary –absences of assigned NCOs. For acting corporal, E-4, and sergeant/E-5, the Soldier may not be more than one grade lower than the one to which appointed.
4. AR 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//