

Headquarters, United States Army Garrison issued Orders Number 200-0276 reassigning him to the U.S. Army transition point for transition processing and discharge at the rank/grade of SGT/E-5, effective 28 October 2008.

e. On 23 September 2008, the Combined Joint Special Operations Task Force – Afghanistan issued Orders Number 267-16 promoting him to the rank/grade of SSG/E-6 in MOS 92G, effective 1 October 2008. The promotion was not valid, and the order would be revoked if he was not in a promotable status on the effective date of promotion.

f. DD Form 214, ending 28 October 2008, reflects an honorable discharge for completion of required active service. Item 4a (Grade, Rate or Rank) shows "SGT." Item 12 (Record of Service) shows service from 5 August 1999 to 28 October 2008 for a net active service this period of 9 years, 2 months, and 24 days.

4. On 23 October 2023, the U.S. Army Human Resources Command (HRC), Chief, Senior Enlisted Promotions, Promotions Branch, provided an advisory recommending disapproval of the applicant's request, stating in effect:

a. After a review of the applicant's request, HRC, Enlisted Promotions Branch has determined administrative relief is not warranted and unsubstantiated.

b. He is requesting to be promoted to the rank/grade of SSG/E-6 based on promotions orders to SSG he discovered in 2023. Orders Number 267-16, dated 23 September 2008 promoted him to SSG, effective 1 October 2008. However, the order also states, "The promotion is not valid, and this order will be revoked if he is not in a promotable status on the effective date of promotion". Army Regulation (AR) 600-8-19 (Enlisted Promotions and Reductions), dated 20 March 2008, paragraph 3-34. Rules, states, (a). The Service Remaining Requirement (SRR) is 12 months for promotion to SSG.

c. He was not eligible for promotion to SSG; he did not meet the SRR as he separated on 28 October 2008 making this an erroneous promotion. He would have had to serve until 30 September 2009 to meet the eligibility criteria to accept this promotion. It is the opinion of the Enlisted Promotions Branch that a promotion is not warranted or justified.

5. On 30 October 2023, the applicant was provided with a copy of the advisory opinion for comment or rebuttal. He did not respond.

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 Board carefully considered the applicant's contentions, the military record, and regulatory guidance. The Board considered the promotion orders which state a service member must be in a promotable status on the effective date of the promotion. Based on his separation date of 28 October 2008, the applicant did not fulfil the 12-month service remaining requirement and, therefore, not eligible for promotion. After due consideration of the applicant's request, 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. AR 600-8-19 (Enlisted Promotions and Reductions), in effect at the time, Paragraph 3-34 states, rules: (a) The service remaining requirement (SRR) is 12 months for promotion to SSG. SRR will be computed from the effective date of promotion.
3. AR 635-5 (Separation Documents) in effect at the time prescribes the separation documents that must be prepared for Soldiers on retirement, discharge, release from active duty service, or control of the Active Army. It establishes standardized policy for preparing and distributing the DD Form 214 (Certificate of Release or Discharge from Active Duty). The DD Form 214 is a summary of a Soldier's most recent period of continuous active duty. It provides a brief, clearcut record of active duty service at the time of release from active duty, retirement, or discharge. Source documents consist of the enlisted record brief, separation orders, and any other document authorized for filing in the official military personnel file. Item 4a; enter the active duty grade or rank and paygrade at the time of separation from the enlisted record brief.

//NOTHING FOLLOWS//