

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 January 2024

DOCKET NUMBER: AR20230007056

APPLICANT REQUESTS: correction of DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending on 26 December 2011 to reflect the rank/grade of sergeant first class (SFC)/E-7.

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

- DD Form 149 (Application for Correction of Military Record)
- Certificate of Training, 1 August 1986
- DD Form 214, 3 December 1987
- Orders Number 127-011, 5 August 1997
- Orders Number D-03-800080, 27 March 2000
- Orders Number D-03-800080R, 13 April 2000
- Orders Number D-04-023822, 25 April 2000
- Certificate of Achievement, 28 May 2003
- Certificate, The Army Commendation Medal, 17 October 2003
- Army Board for Correction of Military Records (ABCMR) Letter, Docket Number AR20140005290
- ARPC Form 249-E (Chronological Statement of Retirement Points)
- DA Form 2-1 (Personnel Qualification 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 in pertinent part that her DD Form 214, for the period ending on 26 December 2011, is incorrect as it does not reflect her rank as SFC. She contests that she maintained the rank of SFC for 7 years and never received any adverse actions which would have resulted in her rank being reduced.
3. A review of the applicant's available service records reflects the following:

- a. On 18 April 1986, the applicant enlisted in the Army National Guard (ARNG) in the rank of private first class (PFC)/E-3.
- b. On or about 8 June 1995, the applicant was promoted to the rank/grade of staff sergeant (SSG)/E-6.
- c. On 5 August 1997, [REDACTED] ARNG issued Orders Number 127-011 announcing the applicant's promotion to SFC (no effective date is listed on these orders).
- d. On 13 December 2000, the applicant was honorably released from the ARNG and transferred into the U.S. Army Reserve (USAR) Control Group (Individual Ready Reserve) in the rank of SFC.
- e. On 12 November 2003, the U.S. Army Human Resources Command (AHRC) issued Orders Number R-11-377090 ordering the applicant to active duty within the Active Guard/Reserve (AGR) program in the rank of SFC, effective 16 November 2003.
- f. On 18 November 2003, AHRC issued Orders Number R-11-377090A01 amending Orders Number R-11-377090 to reflect the applicant's rank as "SSG" rather than "SFC."
- g. On 23 October 2006, the applicant reenlisted in the USAR in the rank of SSG, for an indefinite period.
- h. On 15 August 2011, a Physical Evaluation Board convened finding the applicant physically unfit for continued military service further recommending that she be medically discharged with entitlement to severance pay. The applicant concurred with the board's recommendation.
- i. On 18 October 2011, AHRC issued Orders Number C-10-114194 reattaching the applicant from her assigned unit to the installation pending separation processing.
- j. On 26 December 2011, the applicant was medically discharged from active duty with entitlement to disability severance pay. DD Form 214, item 4a./b. (Grade, Rate or Rank/Pay Grade) reflects "SSG/E6"; item 12i. (Effective Date of Pay Grade) reflects "8 June 1995."

4. The applicant provides the following a:

- a. Certificate of Training dated 1 August 1986, reflective of the applicant's completion of Basic Training.

- b. DD Form 214 ending on 3 December 1987, reflective of the applicant's completion of a period of active duty from 24 September 1987 – 3 December 1987.
 - c. Orders Number D-03-800080, dated 27 March 2000, reflective of the applicant being discharged from the USAR, effective 17 April 2000 in the rank of SFC.
 - d. Orders Number D-03-800080R, dated 13 April 2000, reflective of Orders Number D-03-800080 being revoked.
 - e. Orders Number D-04-023822, dated 25 April 2000, reflective of the applicant being discharged from the USAR, effective 25 April 2000, in the rank of SFC.
 - f. Certificate of Achievement dated 28 May 2003, reflective of the applicant being recognized for outstanding performance while serving as a Combat Service Support Observer Controller during Joint Readiness Training Center Rotation from 17 May 2003 – 28 May 2003. The applicant is referred to at the rank of SFC.
 - g. Certificate, The Army Commendation Medal, dated 17 October 2003, reflective of the applicant being recognized for exceptional service from 28 February 2002 – 13 October 2003, at the rank of SFC.
 - h. ABCMR Docket Number AR20140005290 letter, reflective of the applicant's submitted request for relief (correction of service dates) being returned without action. The applicant was redirected to AHRC.
 - i. ARPC Form 249-E, reflective of the applicant's creditable military service from 18 April 1986 – 17 April 2010 (14 years of service). The applicant is referred to at the rank of SSG.
 - j. DA Form 2-1, reflective of the applicant's pertinent personnel and administrative information to include previous assignments and promotion history. The applicant's date of rank to SSG reflects 18 June 1995; SFC – 5 August 1997 (ARNG) and SFC (USAR) 26 March 1999. This document was prepared and subsequently reviewed by the applicant on 6 December 2002.
5. The applicant did not provide nor does review of her available service records reflect evidence of the applicant being promoted to the rank of SFC during the period of service reflected on DD Form 214 (16 November 2003 – 26 December 2011).

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, available military records, the Board determined the applicant's promotion orders, dated 5 August 1997, clearly stipulated a two-year mandatory service obligation for advancement to the rank of Sergeant First Class (SFC). The record indicates the applicant voluntarily enlisted in another component of the Armed Forces on 14 March 1999—approximately five months short of completing that required obligation.

2. The Board agreed per the conditions outlined in her promotion orders, failure to fulfill this obligation would trigger a reversion to the previous rank. The consequences of noncompliance were clearly stated, and the applicant's early separation, though voluntary, constituted noncompliance with the terms of her promotion. Therefore, her discharge at the lower grade is consistent with regulatory policy and the terms of her advancement. Furthermore, the applicant has not provided sufficient evidence to support a correction of her DD Form 214 for the period ending 26 December 2011 to reflect the rank of SFC/E-7. In light of the clear documentation and applicable guidance, the Board denied relief.

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 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.


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) 635-5 (Separation Documents) provides 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./4b. (Grade, Rate or Rank/Pay Grade) will reflect the service members rank at the time of separation.
3. AR 15-80 (Army Grade Determination Review Board and Grade Determinations) sets forth grade determination policy. The Army Grade Determination Review Board

determines or recommends the highest grade satisfactorily held for service/physical disability retirement, retirement pay, and separation for physical disability.

a. Paragraph 3-3 (Physical Disability Cases) provides that an enlisted Soldier being processed for physical disability separation or disability retirement, not currently serving in the highest grade served, will be referred to the AGDRB for a grade determination, unless the Soldier is entitled to a higher or equal grade by operation of law (see 10 USC 1212 (Disability Severance Pay) and 10 USC 1372 (Grade on Retirement for Physical Disability: Members of Armed Forces)). Title 10, USC, section 1212 and Title 10, USC, section 1372 provide generally that a Soldier separated for physical disability will have retired or severance pay calculated based upon the higher of current grade, highest grade satisfactorily served (if not the current grade), or the grade to which one would have been promoted had it not been for the physical disability (that is, was on an approved promotion list).

b. Paragraph 3-1 (General) provides that enlisted Soldiers will usually retire in the grade held on the day before their placement on the retired list and are not subject to discretionary grade determinations, except for disability separations and 30-year cases set forth in this chapter. For enlisted cases, the AGDRB will make final determinations on behalf of the SA unless that authority is reserved by higher authority in a particular case or type of cases. It will determine the highest grade in which a Soldier has served satisfactorily for purposes of 30-year cases, physical disability retirement, other computations of retired pay (see 10 USC 1406 or 10 USC 1407), or separation for physical disability with severance pay. Enlisted grade determinations will result in either a decision to retain the individual's current grade or to advance to a higher grade in which the individual satisfactorily served or to which advancement is otherwise provided by law.

//NOTHING FOLLOWS//