

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 March 2024

DOCKET NUMBER: AR20230007792

APPLICANT REQUESTS: correction of his retirement orders and DD Form 214 (Certificate of Release or Discharge from Active Duty) to show he retired as a first sergeant (1SG)/E-8 vice master sergeant (MSG)/E-8.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, November 1993 to July 2015
- Retirement Order 300-0162, effective 31 July 2015
- Enlisted Record Brief
- Order Number 201-21 to MSG/E-8, 19 July 2012
- Appointment Order to 1SG, 1 February 2015

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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 upon his promotion to E-8, he was assigned as the 1SG for Winston Salem Recruiting Company effective 20120110 until his retirement. He addressed this discrepancy with the S-1 officer at the time of discovery and it was stated that there was nothing that could be done. He continued to address this error continuously with no support from the command sergeant major or the chain of command. Without the support necessary to correct the error and the remoteness of his duty location this error was not corrected. He earned that position and should be credited with it. It was recently brought to his attention by a new retiree that this error is able to be corrected, hence his request to correct stated error and injustice to his records.
3. Review of the applicant's service records shows:

- a. He enlisted in the Regular Army on 17 November 1993 and held military occupational specialties (MOS), the last of which was 79R, Recruiter.
- b. He served through multiple reenlistments, in a variety of stateside or overseas assignments, including Kuwait and Iraq, and he was promoted to MSG/E-8 on 1 August 2012 in MOS 79R.
- c. The applicant's highest military education level is the Advanced Noncommissioned Officer (NCO) Course on 9 February 2004.
- d. The applicant's NCO Evaluation Reports for the rating periods listed below reflect the applicant's duty position as First Sergeant of U.S. Army Recruiting Battalion, Winston-Salem Recruiting Company:
- 27 November 2011 through 26 November 2012, Among the Best rating, successful overall performance, superior potential
  - 27 November 2012 through 17 May 2013. Among the Best rating, successful overall performance, superior potential
  - 18 May 2013 through 17 May 2014, Among the Best rating, superior overall performance, superior potential
  - 18 May 2014 through 17 May 2015, No NCO Evaluation Report submitted
- e. On 17 December 2013, Headquarters, U.S. Army Recruiting Command published Orders 351-0109 changing his special duty assignment pay from Level 5 (\$375 per month to Level 5 (\$375), for his duty title of 1SG, effective 1 February 2014.
- f. On 26 January 2015, Headquarters, U.S. Army Recruiting Command published Orders 26-818, changing his special duty assignment pay from Level 6 (\$450 per month to Level 4 (\$300), for his duty title of 1SG, effective 1 February 2015.
- g. There is no indication he completed the First Sergeant Course. Likewise, there is no evidence he was awarded Special Qualification Identifier "M" (First Sergeant) (which is awarded upon successful completion of the First Sergeant Course).
- g. On 27 October 2014, U.S. Army Garrison Command, Fort Knox, published Retirement Orders 300-0162 reassigning the applicant to Fort Bragg, NC Transition Center for separation processing effective 7 May 2015. The orders retired him on 31 July 2015 and placed him on the retired list in the grade of MSG effective 1 August 2015.
- h. He retired on 31 July 2015. His DD Form 214 shows he completed over 22 years of active service. His DD Form 214 shows in:

- Blocks 4a (Grade, Rate or Rank) and 4b (Pay Grade) MSG/E-8
- Block 12i (Effective Date of Rank) 1 August 2012

4. By regulation (AR 635-200) (in effect then), paragraph 12–17 - Grade title on retired list of former first sergeants, states: NCOs holding the grade of MSG at retirement, whose records show successful service as 1SG, will be placed on the retired list in the grade title, 1SG. The following are the only criteria for such placement on the retired list:

- The Soldier must be serving in and retiring in the grade of MSG.
- The Soldier must possess special qualification identifier “M”
- The Soldier must have served as 1SG in grade of MSG. No minimum time period is specified. Service in the duty action of first sergeant while in the grade of SFC does not meet this requirement.

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 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's records is absent evidence he completed the First Sergeant Course. Likewise, there is no evidence he was awarded Special Qualification Identifier “M” (First Sergeant) (which is awarded upon successful completion of the First Sergeant Course). The Board noted the applicant's evaluations showing he served as a first sergeant. However, the Board determined based on regulatory guidance the applicant did not meet the criteria for correction of his retirement orders and DD Form 214 to show he retired as a first sergeant (1SG)/E-8 vice master sergeant (MSG)/E-8. Therefore, the Board denied relief.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:	:	:	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.

4/8/2024

X 

CHAIRPERSON

Signed by: SCHINDLER.KERRY.JOHN.1099712119

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, U.S. Code, 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 635–200, Personnel Separations, Active Duty Enlisted Administrative Separations, in effect at the time of the applicant’s retirement, prescribes the policies, procedures, and authority for separation of Soldiers upon expiration term of service (ETS) or fulfillment of active duty obligation, and the general provisions governing the separation of Soldiers before ETS or fulfillment of active duty obligation to meet the needs of the Army and its Soldiers. Chapter 12 sets policies and procedures for voluntary retirement of Soldiers because of length of service. Sub-paragraph 12–17 - Grade title on retired list of former first sergeants, states: Noncommissioned officers holding the grade of master sergeant at retirement, whose records show successful service as first sergeant, will be placed on the retired list in the grade title, first sergeant. The following are the only criteria for such placement on the retired list:

- The Soldier must be serving in and retiring in the grade of MSG.
- The Soldier must possess special qualification identifier “M”
- The Soldier must have served as first sergeant in grade of MSG. No minimum time period is specified. Service in the duty action of first sergeant while in the grade of SFC does not meet this requirement.

//NOTHING FOLLOWS//