

IN THE CASE OF: [REDACTED]

BOARD DATE: 29 February 2023

DOCKET NUMBER: AR20230008424

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), item 5a (Grade, Rate or Rank) to show sergeant (SGT) vice specialist 5 (SP5) and a personal appearance before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, ending on 9 January 1970
- Self-authored letter
- Photograph

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 the summer of 1969 while nearing the end of his Army service at Fort Leonard Wood, MO, he was assigned to work with the Army National Guard students. He was a SP5 and everyone else was in the grade of E-6 and above. He was told he would be given SGT/E-5 stripes, but the tour ended and it never happened.
3. A review of the applicant's official record shows the following:
 - a. On 10 January 1967, the applicant enlisted in the Regular Army.
 - b. DA Form 20 shows the following, item 33 (Appointments and Reductions) shows the applicant was promoted to the rank/grade of SP5/E-5 (Temporary (T)) on

18 December 1968 by order of Special Orders Number 3 issued by Headquarters, 1st Cavalry Division Air Mobile.

c. On 9 January 1970, the applicant was honorably released from active duty by reason of expiration term of service and transferred to the U.S. Army Reserve Control Group (Reinforcement). DD Form 214, item 5a shows "SP5" and item 6 (Date of Rank) shows 18 December 1968.

4. The applicant provides a photograph wherein the applicant states he is the Soldier wearing the SGT stripes.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation failing to show that the applicant was promoted to the requested rank during his period of service, as well as the applicant's statement saying it never happened, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's rank.

2. Promotions are a commander's option; promotions are not automatically given to Soldiers. Without evidence the applicant was submitted for promotion and awarded the promotion, there is no error warranting correction.

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.

5/20/2024

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.

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. All available records will be used as a basis for the preparation of DD Form 214, including DA Form 20, and orders. Item 5a; enter the grade in which serving at the time of separation, show in item 30 (Remarks) whether temporary or permanent.
3. The evolution of the enlisted rank shows on 28 April 1971 as published in Army Regulation 600-20 (Command Policy) the rank of SP5 and specialist six (SP6) were discontinued effective 1 October 1985.
4. AR 15-185 (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//