

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 April 2024

DOCKET NUMBER: AR20230010067

APPLICANT REQUESTS: correction of his records to show he retired in the grade of sergeant first class (SFC)/E-7 vice staff sergeant (SSG)/E-6.

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

- DD Form 149 (Application for Correction of Military Record)
- Extract of a magazine, "The Army Times"

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 he was discharged (i.e., retired) at the grade of staff sergeant (SSG)/E-6. It should have been sergeant first class (SFC)/E-7. He came out on the promotion list as number 1 for his MOS (military occupational specialty) as reflected on the of the Army Times he has attached.

3. Review of the applicant's service records shows:

a. Having had prior service (10 September 1971 to 16 August 1978) and having been promoted to SSG/E-6 in September 1977, the applicant reenlisted in the Regular Army on 17 August 1978. He held an infantry MOS.

b. He served through multiple reenlistments or extensions in a variety of stateside or overseas assignments.

c. He retired on 31 October 1989, and he was placed on the retired list in his retired grade of SSG/E-6 on 1 November 1989. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 11 years, 2 months, and 14 days of active service with 7 years and 9 months of prior active service. It also shows in:

- Blocks 4a (Garde, Rate or Rank) and 4b (Pay Grade) SSG/E-6
- Block 12h (Effective Date of Pay Grade) 1 September 1977

4. He provides an extract of the Army Times, dated 26 March 1990, that reflects his name, MOS 11H, and the sequence number 1.

5. On 27 September 2023, the U.S. Army Human Resources Command, Senior Enlisted Promotion Branch, provided an advisory opinion in the processing of this case, referencing Army Regulation (AR) 600-200, dated 1 February 1981, Enlisted Personnel Management System. The advisory official stated:

a. After a review of the applicant's request, the United States Army Human Resources Command, Enlisted Promotions Branch has determined administrative relief is not warranted and unsubstantiated. The applicant is requesting to be promoted to SFC based on the release of the FY90 SFC Promotion List results which were published in the Army Times on 26 March 1990, and showed him as a select for MOS 11H with sequence number 1. However, the applicant would have been administratively removed from this board prior to the active dates of promotion from this list based on his retirement date of 31 October 1989. Also, the applicant was never promoted; in accordance with AR 600-200, paragraph 7-5c. states: "HQDA will publish orders announcing promotions to grades E-7 through E-9. Also stated in paragraph 7-42c., Soldiers promoted to grades E-7, E-8, and E-9 will incur a 2-year service obligation." Neither of these occurred.

b. The applicant was not eligible for promotion to E-7 at any time based on his retirement date of 31 October 1989. It is the opinion of Senior Enlisted Promotions that a promotion is not warranted or justified.

6. The applicant was provided with a copy of this advisory opinion to give him an opportunity to submit a rebuttal. He did not respond.

BOARD DISCUSSION:

1. The applicant's contentions, the military record, and regulatory guidance were carefully considered. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted.

2. The Board concurs with the advisory official; relief is not warranted and unsubstantiated. The applicant was not eligible for promotion to E-7 at any time based on his retirement date of 31 October 1989; furthermore, he was never promoted by official orders. It is the opinion of Senior Enlisted Promotions that a promotion is not warranted or justified.

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.

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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, 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 600-200 (Enlisted Personnel Management), dated 24 March 1965 with changes 1 through 47, governed the promotion of enlisted personnel at the time of the applicant's service. The promotion section of this regulation was superseded by Army Regulation 600-8-19 (Enlisted Promotions and Reductions). The regulation in effect at the time stated. Headquarters, Department of the Army will publish monthly orders announcing promotions to grades E-7 through E-9. Also, paragraph 7-42c stated Soldiers promoted to grades E-7, E-8, and E-9 will incur a 2-year service obligation."

//NOTHING FOLLOWS//