

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 June 2024

DOCKET NUMBER: AR20230011925

APPLICANT REQUESTS: correction of his record to show he was promoted to the rank/grade of sergeant (SGT)/E-5

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

- DD Form 149 (Application for Correction of Military Record)
- Letter of Appreciation, 31 March 1971
- Unit Orders Number 31, 18 August 1971
- Weekly Bulletin Number 35, 8 September 1971
- Weekly Bulletin Number 39, 6 October 1971
- Photograph
- DD Form 214 (Armed Forces of the U.S. Report of Transfer or Discharge), 15 November 1971

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, while serving in the Republic of Vietnam, he was appointed to the temporary rank/grade of SGT/E-5 on 18 August 1971. He notes that in September 1971, a promotion board was conducted but due to a subsequent change of command the participants did not receive orders. He is not confident if he was included in the promotion board. Despite not receiving orders, he continued to perform duties as a SGT until he departed Vietnam. He is not looking for back pay or entitlements. Instead, he is simply looking for a letter stating that he was promoted to SGT so that his headstone will reflect the rank that he held upon being released from the U.S. Army.

3. A review of the applicant's available service records reflects the following:

- a. On 13 May 1970, the applicant was inducted into the U.S. Army.

b. On 16 February 1971, Headquarters, 23rd Infantry Division issued Special Orders Number 47 announcing the applicant's appointment to the rank/grade of specialist four (SP4)/E-4, effective 18 January 1971.

c. On 15 November 1971, Headquarters, U.S. Army Personnel Center issued Special Orders Number 319 announcing the applicant's relief from active duty at the rank/grade of SP4/E-4. DD Form 214 shows he was transferred to the U.S. Army Reserve (USAR) Control Group (Annual Training), item 5a./b. (Grade, Rate or Rank/Pay Grade) reflects "SP4/E-4"; item 6 "Date of Rank" reflects "18 January 1971."

d. On 28 April 1976, the Reserve Components Personnel and Administration Center issued Letter Orders Number 04-1063728 honorably discharging the applicant from the USAR, effective 1 May 1976.

4. The applicant provides the following a:

a. Letter of Appreciation dated 31 March 1971, reflective of the applicant being recognized for his outstanding performance and contribution to the Annual General Inspection.

b. Unit Orders Number 31 dated 18 August 1971, reflective of the applicant being appointed as an "Acting Noncommissioned Officer/Sergeant."

c. Weekly Bulletin Number 35 dated 8 September 1971, reflective of the applicant being assigned to perform the duties as Sergeant of the Guard on 11 September 1971.

d. Weekly Bulletin Number 39 dated 6 October 1971, reflective of the applicant being assigned to perform the duties as Sergeant of the Guard on 8 October 1971.

e. Photograph of SGT rank insignia.

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 applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant provides Unit Orders, dated 18 August 1971, reflective of the applicant being appointed as an "Acting NCO/SGT." Unlike an appointment or promotion to temporary or permanent SGT/E-5, an acting SGT holds the rank/grade temporarily due to either the absence of a qualified SGT, due to a unit's need for an acting NCO, or due to other reasons. Either way, such appointment to an acting grade is temporary. He was an acting SGT only for the period of time he was assigned to the unit that appointed him to that acting grade. He was not entitled to pay and allowances of that grade. The

applicant's temporary appointment to acting SGT terminated upon his exit from the unit that appointed him to the acting grade. That is why his separation orders and DD Form 214 listed his rank as SP4. The Board determined 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 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.

█

█ █

█

█

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) 624-200 (Promotions, Demotions and Reductions – Appointment and Reduction of Enlisted Personnel) paragraph 12 (Acting Noncommissioned Officers (NCO)) provides that an acting NCO is not entitled to pay and allowances of such higher grades. Appointment of acting NCOs and termination of such status will be announced in orders. Acting NCO status will be terminated at the discretion of the appointing commander or upon reassignment to another unit. If the temporary appointment on which the permanent appointment is based became effective on or after 1 June 1958, warrant evidencing the permanent appointment will be issued in accordance with current grade structure. Effective 1 July 1961, temporary appointments of Regular Army personnel in grade in which serving, will become permanent on after the SP4 completes 12 months-time in grade computed from the temporary date of rank.

3. AR 600-200 (Enlisted Personnel Management System), chapter 7 (Promotion and Reduction), in effect at the time, contained the Army-wide promotion policy in effect at the time. Section VII. (Appointment of Acting Noncommissioned Officers) of this chapter provided:

a. Paragraph 7-52 (Appointment) provided -

(1) Units. Company, troop, battery, and separate detachment commanders may appoint qualified individuals as acting corporals, E-4, and acting sergeants, E-5, to serve in position vacancies existing in their units at their present or higher grade, including those resulting from temporary absences of assigned noncommissioned officers. For appointments to acting corporals, E-4, and acting sergeant, E-5, the individual being appointed may not be more than one grade lower than the grade to which he/she is being appointed.

(2) Casual groups. Commanders issuing movement orders for causal groups may appoint individuals as acting noncommissioned officers in grades of corporal, E-4, sergeant, E-5, and staff sergeant, E-6, to exercise supervision and control during movements.

b. Paragraph 7-53 (Orders) provided appointment of acting NCO will be announced in orders. An acting noncommissioned officer's status will be terminated—

(1) At the discretion of the unit commander who made the appointment.

(2) Upon assignment of a regularly promoted noncommissioned officer to the position.

(3) When casual groups reach their destination.

(4) Upon reassignment to another unit.

c. Termination for reasons (1) through (3) above will be accomplished by orders.

4. AR 635-5 (Separation Documents) in effect at the time prescribes the separation documents what 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. Item 5a; enter grade in which serving at the time of separation, indicating whether permanent or temporary.

//NOTHING FOLLOWS//