

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 September 2024

DOCKET NUMBER: AR20230013886

APPLICANT REQUESTS: reconsideration of his previous request for correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show his rank/grade as specialist five (SP5)/E-5 instead of specialist four (SP4)/E-4.

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- DD Form 214, ending on 5 June 1972
- U.S. Army Reserve Discharge Order, 1 December 1976
- U.S. Army Reserve Honorable Discharge Certificate, 1 December 1976

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20210005101 on 13 October 2021.
2. The applicant states he would like to have his DD Form 214 updated to indicate the latest promotion to SP5. He has attached his discharge order and an Honorable Discharge Certificate which show he was a SP5 at the time of discharge. He believes the Board's initial review and denial of updating his DD Form 214 to show his final discharge rank was flawed. The documents he has attached show he was duly promoted to SP5 prior to his active duty discharge.
3. The applicant's service records are not available for review. An exhaustive search was conducted to locate the service records, but they could not be found. The only documents available were the documents provided by the applicant and his previous application and Board's decision. These documents are sufficient for the Board to conduct a fair and impartial review of this case.

4. The applicant was inducted into the United States Army on 2 December 1970. At the time of his induction, enlisted Soldiers who were inducted, were required to serve 2 years on active duty and 4 years on inactive duty in the U.S. Army Reserve (unless the enlisted Soldier extended, enlisted, or reenlisted).

a. The applicant was trained in and held military occupational specialty 01B (Electric Assistant Engineer) on 6 February 1971.

b. His DA Form 20 (Enlisted Qualification Record) which would have shown his promotions and reductions, is not available for review.

c. There are no special orders in his records, and he provides none to show he was appointed, advanced, or promoted to SP5, while on active duty.

d. The applicant was honorably released from active duty on 5 June 1972, and he was transferred to the U.S. Army Reserve Control Group (Annual Training) to complete his remaining statutory service obligations. His DD Form 214 shows in:

- Items 5a and 5b shows "SP4" and "E-4" respectively
- Item 6 (Date of Rank) shows the entry "16 July 1971"

e. It is possible he was promoted or appointed to SP5 while in the U.S. Army Reserve (not on active duty), despite the absence of orders confirming such promotion.

f. He was honorably discharged from the U.S. Army Reserve (not from active duty) on 1 December 1976, and he was issued an Honorable Discharge Certificate. Both his discharge order and certificate listed his Reserve grade of SP5.

5. On 13 October 2021, the Board considered his request:

a. After reviewing the application and all supporting documents, 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 evidence presented does not demonstrate the existence of a probable error or injustice. Evidence in the record shows the applicant was released from active-duty in the rank of SP4/E-4. The Board determined the applicant's record is absent evidence that shows he was promoted to SP5/E-5 prior to his release from active-duty.

b. The Board determined the applicant was discharged from the U.S. Army Reserves in the grade of SP5. However, by regulation the applicant's DD Form 214 is a snapshot at the time of the Soldier's separation and captures the active-duty rank and pay grade based on promotion orders. Based on this, the Board denied relief for correction of his DD Form 214 to show his rank/grade as SP5/E-5 instead SP4/E-4.

6. By regulation (AR 635-5), the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation. Items 5a and 5b will show the active-duty rank and pay grade at the time of the Soldier's separation, the rank is taken from the Soldier's promotion/reduction orders, and item 6 shows the date of rank.

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 available evidence shows the applicant served on active duty from 2 December 1970 to 5 June 1972. During his active service, he was advanced to SP4/E-4 on 16 July 1971. He held this rank and grade at the time of his release from active duty. Therefore, his DD Form 214 correctly reflects his rank and grade of SP4/E-4. He may have been promoted to SP5/E-5 in the USAR but that occurred after his release from active duty and has no impact on his DD Form 214. Therefore, the Board determined the rank/grade listed on his DD Form 214 at the time of separation is not in error or unjust.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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| : | : | : | 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 to amend the decision of the ABCMR set forth in Docket Number AR20210005101 on 13 October 2021.

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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. Army Regulation 635-5 (Separation Documents) at the time established the standardized policy for preparing and distributing the DD Form 214. The DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation. Chapter 2 of the regulation in effect at the time contains guidance on the preparation of the DD Form 214. It states, in part, that items 5a and 5b will show the active duty rank and pay grade at the time of the Soldier's separation, the rank is taken from the Soldier's promotion/reduction orders, and item 6 shows the date of rank.

2. Army Regulation 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 begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. .

//NOTHING FOLLOWS//