

IN THE CASE OF: ██████████

BOARD DATE: 14 August 2024

DOCKET NUMBER: AR20230014804

APPLICANT REQUESTS: his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) ending on 26 August 1971, show the rank/grade of sergeant (SGT)/E-5 instead of specialist four (SP4)/E-4.

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

- DD Form 149 (Application for Correction of Military Record)
- Headquarters, 2d Battalion, 12th Artillery Memorandum - Subject: Standing Promotion List for July 1971, 13 July 1971
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), 26 August 1971

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 is requesting that his discharge shows SGT/E-5 on his DD Form 214. He has a copy of the promotion orders, and he was promoted prior to his discharge.
3. A review of the applicant's military records show the following:
 - a. He was inducted into the Army of the United States on 20 February 1970.
 - b. DA Form 20 (Enlisted Qualification Record), item 33 (Appointments and Reductions) shows the highest rank he attained was SP4.
 - c. On 1 February 1971, Headquarters, 23d Artillery Group published Special Orders Number 29, which appointed/promoted the applicant to SP4, effective 23 January 1971.

d. On 26 August 1971, Headquarters, U.S. Army Personnel Center, Oakland, CA published Special Orders Number 238, which released the applicant from active duty and transferred him to the U.S. Army Reserve (USAR), effective the date of order. The orders show his rank as SP4.

e. The applicant was honorably released from active duty and was transferred to the USAR Control Group (Annual Training) on 26 August 1971. His DD Form 214 shows in item 5a (Grade, Rate or Rank) "SP4," item 5b (Pay Grade) "E-4" and item 6 (Date of Rank) 23 January 1971.

f. On 29 January 1976, the Office of the Adjutant General, Reserve Components Personnel and Administration Center published Letter Orders Number 01-1010028, which honorably discharged the applicant from the Standby Reserve, effective 1 February 1976. The orders show his rank as SP4.

g. The applicant's record is void of promotion orders to SGT/E-5, and he did not provide orders showing he was promoted to SGT/E-5.

4. In support of his case the applicant provides Headquarters, 2d Battalion, 12th Artillery Memorandum - Subject: Standing Promotion List for July 1971, dated 13 July 1971, which shows an E-5 and E-6 Promotion Board convened on 11 July 1971 and he was integrated on the Standing Promotion List for promotion to E-5 with 614 points. The memorandum does not show he was promoted to SGT/E-5.

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 evidence of record shows the applicant held the rank of SP4 at the time of his release from active duty. The DD Form 214 reflects the grade and rank held by the Soldier at the time of separation. Although the applicant provided evidence that he was promotable, there is no evidence he was promoted to SGT/E-5 prior to his release from active duty.

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.

8/14/2024

X [Redacted Signature]

CHAIRPERSON

[Redacted Name]

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 (AR) 15–185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the Army Board for Correction of Military Records (ABCMR). In pertinent part, it states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR will decide cases based on the evidence of record. It is not an investigative agency.
3. AR 635-5 (Personnel Separations - Separation Documents) prescribes the separation documents that will be furnished to each individual who is separated from the Army and establishes standardized procedures for the preparation and distribution of these documents. The specific instructions for completing the DD Form 214, item 5a state to enter grade in which serving at time of separation, indicating whether permanent or temporary. Example: "MSG (P) or "MSG (T) ."
4. AR 600-200 (Enlisted Personnel Management System), Chapter 7 (Promotion and Reduction), paragraph 7-4 (Orders) states, promotion of enlisted personnel to grade E-3 through E-9, appointments, grade reductions, and grade restorations will be announced in routine orders.

//NOTHING FOLLOWS//