

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 September 2024

DOCKET NUMBER: AR20240000650

APPLICANT REQUESTS: in effect, a personal appearance hearing before the Board via video or telephone and correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show:

- in block 24 (Character of Service) "Honorable" instead of "Uncharacterized"
- any award or decoration he is entitled, to include an Army Commendation Medal
- promotion to the rank/grade of sergeant (SGT)/E5

APPLICANT'S SUPPORTING DOCUMENT CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record).

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, in effect:

a. He was up for promotion when he was placed in the Individual Ready Reserve (IRR). He believes award of the Army Commendation Medal would have resulted in his promotion to the rank/grade of SGT/E-5. At the time, his company was deployed to the Middle East. Since he was in the IRR, he was unable to deploy.

b. He was unable to go to his monthly drills due to economic hardship. When he did go to drill, he was ostracized because it was apparent that most of the servicemembers on the post thought he was gay. No one ever mentioned he was gay, but he felt the vibes and distance from his comrades, so he opted to go into the IRR.

c. His brief service in the military was psychologically and emotionally harmful to his overall morale. In basic training his first sergeant tried to chapter him out of the service. The first sergeant claimed he was looking at his fellow Soldiers in a peculiar way. After

he pursued going to speak to the battalion commander, the charges were dismissed. He believes the first sergeant's allegation against him should be documented.

3. The applicant entered active duty as a member of the U.S. Army Reserve on 9 February 1995.

4. He entered active duty from 9 February to 3 June 1995, and he successfully completed training and he was awarded military occupational specialty (MOS) 71L (Administrative Specialist). The DD Form 214 he was issued shows in:

- block 4a (Grade, Rate, or Rank) PFC
- block 4b (Pay Grade) E-3
- block 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) Army Service Ribbon, Marksman Marksmanship Qualification Badge with Rifle Bar
- block 23 (Type of Separation) Release from Active Duty Training
- block 24 (Character of Service) Uncharacterized

5. His Official Military Personnel File (OMPF) does not contain promotion orders which indicate he was promoted to the rank/grade of specialist/E4 or selected for or promoted to the rank/grade of SGT/E5 by proper authority during his service.

6. His OMPF does not contain a formal recommendation, approval through the chain of command, and announcement in orders for award of the Army Commendation Medal.

7. His OMPF contains a DA Form 2-1 (Personnel Qualification Record) which shows he qualified as an expert with the hand grenade on 3 April 1995. Therefore, the Expert Marksmanship Qualification Badge with Hand Grenade Bar will be added to his DD Form 214 by administrative correction.

8. Army Regulation 15-185 prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. Discharge Upgrade: Grant. The evidence shows the applicant entered active duty for training from 9 February to 3 June 1995, and he successfully completed training and he was awarded military occupational specialty (MOS) 71L (Administrative Specialist). The DD Form 214 he was issued shows he received an uncharacterized discharge. Since he completed initial entry training and was awarded an MOS, the Board determined his character of service should be honorable.

b. Grade: Deny. The applicant entered active duty for training on 9 February 1995 in the grade of PFC/E-3. He held this rank upon his release from active duty. There is no evidence he was recommended for or promoted to a higher grade during his active service. Therefore, the Board determined the rank/grade listed on his DD Form 214 is not in error or unjust. Additionally, promotion to a higher grade requires several requirements including time in grade, time in service, and a firm recommendation by the commander.

c. Army Commendation Medal: Deny. The Board found no evidence of a recommendation for this award, approval through the chain of command, or the order that announced this award.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

■ ■ ■ GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

: : : DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. In addition to the correction addressed in Administrative Note(s) below, the Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the

individual concerned be corrected by amending the applicant DD Form 214 for the period ending 3 June 1995 to show his character of service as honorable.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to promotion to E-5 and the Army Commendation Medal.

[REDACTED]

[REDACTED]

[REDACTED]

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.

ADMINISTRATIVE NOTE(S): void and reissue the applicant's DD Form 214, to show, the following block entries: block 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) add the Expert Marksmanship Qualification Badge with Grenade Bar

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 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards and states, the Army Commendation Medal may be awarded to any member of the Armed Forces of the United States who, while serving in any capacity with the Army after 6 December 1941, distinguishes himself or herself by heroism, meritorious achievement, or meritorious service. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

3. Army Regulation 600-8-19 (Enlisted Promotions and Reductions), then in effect, prescribed the enlisted promotions and reductions function of the military personnel system. Chapter 3 (Semicentralized Promotions (SGT and Staff Sergeant (SSG))

governs the promotion system for Regular Army and Reserve Soldiers. It stated, in part, for promotion to SGT, a Soldier must be recommended in the career progression MOS and be fully qualified in the recommended MOS. Table 3-2, in effect at the time, provided the eligibility criteria for recommendation for promotion to SGT and SSG.

4. Army Regulation 15-185 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. The ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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.

//NOTHING FOLLOWS//