

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 August 2024

DOCKET NUMBER: AR20240000738

APPLICANT REQUESTS: correction of his service record to show restoration of his rank of sergeant first class (SFC)/E-7 for retirement at the highest rank held.

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

- DD Form 149 (Application for Correction of Military Record)
- Permanent Orders Number 165-002, 14 June 2006
- Orders Number 06-237-00006, 25 August 2006
- DD Form 214 (Certificate of Release or Discharge from Active Duty), ending 28 February 2019

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, he was promoted to the rank of SFC on 1 September 2006, while serving in Operation Iraqi Freedom. However, due to accepting appointment from the Reserve to active duty he had to relinquish his SFC rank based off an administrative reduction back to the rank/grade of staff sergeant (SSG)/E-6.
3. A review of the applicant's available service record reflects the following:
  - a. Having prior enlisted service with the Army National Guard, on 22 September 1990, he enlisted in the U.S. Army Reserve (USAR).
  - b. On 1 October 1991, he enlisted in the Regular Army.
  - c. On 1 November 2001, Headquarters, 101st Airborne Division (Air Assault) and

Fort Campbell issued Orders Number 305-0001 reassigning him to the U.S. Army transition point for transition processing and honorable discharge from the Regular Army, in the rank/grade of SSG/E-6, effective 11 November 2001.

d. DD Form 214, ending on 11 November 2001 reflects an honorable discharge for completion of required active service.

(1) Item 4a (Grade, Rate or Rank) shows SSG.

(2) Item 4b (Pay Grade) shows E-6.

(3) Item 12 (Record of Service) shows service from 1 October 1991 to 11 November 2001 for a net active service this period of 10 years, 1 month, and 11 days.

e. On 10 October 2002, he enlisted in the USAR in the rank/grade of SSG/E-6.

f. On 14 June 2006, Headquarters Fort McCoy issued Permanent Orders Number 165-002 for a temporary change of station in support of Operation Iraqi Freedom and return to permanent duty station from 17 June 2006 to on or before 12 October 2007 in the rank of SSG.

g. On 25 August 2006, Headquarters, 108th Division (Institutional Training) issued Orders Number 06-237-00006 promoting him to the rank/grade of SFC/E-7, effective 1 September 2006.

h. On 29 April 2009, he enlisted in the Regular Army in the rank of SSG and continued service through reenlistments.

i. On 5 May 2009, the U.S. Army Human Resources Command issued Orders Number D-05-909198 honorably discharging him from the USAR with a retroactive effective date of 28 April 2009.

j. On 11 June 2009, Headquarters, 108th Training Command (Initial Entry Training) issued Orders Number 09-162-00027 honorably discharging from the USAR in the rank of SFC, with a retroactive effective date of 28 April 2009 and immediate reenlistment in the Regular Army effective 29 April 2009.

k. DA Form 2-1 (Personnel Qualification Record – Part II), Item 18 (Appointments and Reductions) shows the following:

- SSG/E-6, effective 1 July 2000
- SFC/E-7, effective 1 September 2006

l. On 25 September 2017, Headquarters III Corps and Fort Hood issued Orders Number 268-0146 for an honorable retirement, effective 30 November 2017. His rank shows SSG with a date of rank of 29 April 2009.

m. On 9 May 2018, Headquarters III Corps and Fort Hood issued Orders Number 129-0168 for honorable retirement effective 28 February 2019. His rank shows SSG with a date of rank of 29 April 2009.

n. DD Form 214, ending 28 February 2019 reflects an honorable retirement for sufficient service for retirement.

(1) Item 4a (Grade, Rate or Rank) shows SSG.

(2) Item 4b (Pay Grade) shows E-6.

(3) Item 12 (Record of Service) shows service from 29 April 2009 to 28 February 2019 for a net active service this period of 9 years, 10 months, and 2 days with total prior active service of 12 years, 2 months, and 16 days.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, 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. One potential outcome was to grant relief based on the applicant served 3 years in the rank of sergeant first class (SFC) while serving in the USAR. However, upon further review of the applicant's petition and available military records, the Board determined the applicant was promoted to SFC on 1 September 2006 while serving in Operation Iraqi Freedom. Evidence shows the applicant accepted an appointment from the USAR to active-duty, due to administrative reduction the applicant had to relinquish his SFC rank.

2. The Board determined the applicant was promoted to the rank of SFC while serving in the USAR as annotated by his promotion orders, dated 25 August 2006. The Board noted the record is absent any supporting documentation to show the applicant was promoted to SFC while on active duty. The Board recognized the applicant service in the grade of SFC for a period of 3 years, however that was in a reserve status and the applicant accepted the reduction in rank to meet the requirements for accepting an active-duty position. Based on regulatory guidance, the Board denied relief.

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, 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. Title 10, USC, section 3964 (Higher Grade after 30 Years of Service: Warrant Officers and Enlisted Members) provides that each retired member of the Army who is retired with less than 30 years of active service is entitled, when his active service plus his service on the retired list totals 30 years, to be advanced on the retired list to the

highest grade in which he served on active duty satisfactorily as determined by the Secretary of the Army. This section applies to Warrant Officers, Enlisted Soldiers of the Regular Army and Reserve Enlisted Soldiers of the Army who, at the time of retirement, are serving on active duty (or, in the case of members of the National Guard, on full-time National Guard duty).

//NOTHING FOLLOWS//