

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 October 2024

DOCKET NUMBER: AR20240001016

APPLICANT REQUESTS:

- correction of her DD Form 214 (Certificate of Release or Discharge from Active Duty) period ending 5 October 2023 to show her rank as Major (MAJ)/O-4
- severance pay as MAJ

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant's Service Timeline
- Selection Board Results
- Orders 194-003, 13 July 2023
- DD Form 214
- United States Department of Defense (DOD)/Uniformed Services Identification card
- Department of Veterans Affairs (VA) Letter (partial)
- Screen Shot
- DOD 7000.14-R Financial Management Regulation (partial)

FACTS:

1. The applicant states her severance pay was paid at the grade of Captain (CPT)/O-3 due to her post separation rank reflecting CPT when it should have been as a MAJ. In addition, her DD Form 214, items a (Grade, Rate or Rank) and item b (Pay Grade) should be MAJ/O-4 in accordance with DOD and Army Regulations.

2. The applicant provides:

a. A timeline of the events of her promotion and medical evaluation board. In addition, this document reflects that she was erroneously given severance pay as a CPT/O3 vice as a MAJ/O4 at the time of her medical discharge.

b. Selection Board Results for the rank of MAJ/O4, released 6 October 2022 shows the applicant's name.

c. Orders 194-003, 13 July 2023 shows the applicant's rank as a CPT and that she was discharge from the Regular Army on 5 October 2023 with a 0 percent (%) disability. Item c authorized her disability severance pay in pay grade O4 based on 10 years, 3 months, and 5 days of service.

d. DOD/Uniformed Services Identification card shows her pay grade as O-4 and rank as MAJ.

e. VA letter (partial), undated reflects in the Explanation of Payment "the evidence shows you received a disability severance payment of \$114,505.56. If this amount does not reflect the total you received, please notify Veterans Administration so they can make the proper adjustments". Her combined evaluation is 30% or more disabling.

f. Screen Shot, undated shows a deposit of \$108,633.58.

g. DOD 7000.14-R (partial) shows information regarding the grade at which disability severance pay is computed.

4. The applicant's service records show the following information:

a. DA Form 71 (Oath of Office) shows the applicant was appointed as a Regular Army Signal Corps officer in the grade of second lieutenant on 1 July 2013.

b. Her Officer Record Brief Section II-Service Data shows the following:

- 2LT-14 June 2013
- First Lieutenant/1LT-1 January 2015
- CPT-1 July 2017

c. DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings) convened on 20 June 2023 shows the applicant was found physically unfit, a rating of 0% was recommended and that her disposition be separated with severance pay. The case was adjudicated, and the applicant concurred and waived a formal hearing of her case. She did not request reconsideration of her VA rating.

d. Her DD Form 214 reflects she was honorably discharged on 5 October 2023 under the provisions of Army Regulation 635-40 (Personnel Separations Disability Evaluation for Retention, Retirement, or Separation), paragraph 4-27c(3) for disability, severance pay, non-combat related. Her separation code was JEB and reentry code not applicable. She completed 10 years, 3 months, and 5 days.

- Item 4a: CPT
- Item 4b: O3

- Item 18 (Remarks) erroneously shows her retired list grade as MAJ/Disability Severance Pay --\$165,096.00

e. The applicant's records are void of orders promoting her to the rank of MAJ/O4.

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. Upon review of the applicant's request and available military records, the Board determined there based on the response from Human Resources Command, the applicant's DD form 214 is correct. The Board noted that in block 18 (Remarks) of her DD Form it shows the applicant's severance pay was at the rank of major as indicated on her orders, with retirement rank as major. Furthermore, the Board noted the applicant's promotion selection list identifying the applicant' for selection in the grade of major, however the Board found the record is absence any promotion orders for the applicant.

2. The Board found no evidence the applicant sought correction of her DA Form 199 (Informal Physical Evaluation Board (PEB) or coordination through DFAS in regards to her severance pay. This board is not an investigative body. The Board determined despite the absence of the applicant's promotion records, they agreed the burden of proof rest on the applicant, however, she did not provide any supporting documentation and her service record has insufficient evidence reflecting promotion orders to the rank of Major. Based on the evidence provided, the Board determined there is no error or injustice and 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.



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 (AR) 600-8-29 (Officer Promotions) in effect at the time states:
 - a. Paragraph 1-10 (Promotion Eligibility) states. The law establishes no minimum TIG requirements for consideration for promotion to CPT, MAJ, and Lieutenant Colonel. These officers must serve at least 3 years TIG to be considered for promotion.
2. Army Regulation 635-8 (Separations Processing and Documents) prescribes the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. It established the standardized policy for the preparation of the DD Form 214. The DD Form 214 is a synopsis of the Soldier's most recent period of continuous active service. The general instructions stated all available records would be used as a basis for preparation of the DD Form 214. The information entered thereon reflects the conditions as they existed at the time of separation. It states for: Item 4a (Grade, Rate or Rank) 4b (Pay Grade verify that the active-duty grade or rank and pay grade are accurate at the time of separation.).
3. Army Regulation 635-40 (Personnel Separations Disability Evaluation for Retention, Retirement, or Separation).
 - a. Chapter 4-27 c (3) (Final disposition by the U.S. Army Physical Disability Agency – Separation with Disability Severance Pay) states, this disposition is directed under 10 USC 1203 or 10 USC 1206, as applicable, when the Soldier is unfit due to a

compensable physical disability determined under the standards of this regulation, and—

(1) The Soldier has less than 20 years of service computed under 10 USC 1208.

(2) The Soldier's combined disability rating is less than 30 percent, to include a rating of zero percent.

b. Chapter 4-30. Grade on retirement or separation for physical disability, states the grade at which a Soldier is retired or receives disability severance pay will be the highest of the options listed below in accordance with the provisions of 10 USC 1212 and 10 USC 1372, respectively, and as implemented by AR 15–80 for determinations of highest grade satisfactorily held.

(1) Current grade. No time-in-grade is required.

(2) Grade to which the Soldier would have been promoted had it not been for the physical disability for which the Soldier was determined unfit. In general, this provision pertains to Soldiers on a promotion list. For Active Army and RC enlisted disability cases, this option is implemented under the provisions of AR 600–8–19. For Active Army and RC officers, upon USAPDA confirming that the officer meets the requirements below, as applicable, the officer's orders will list the higher grade at the order's lead line for retired grade. Promotion orders are not issued.

//NOTHING FOLLOWS//