

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 October 2024

DOCKET NUMBER: AR20240001298

APPLICANT REQUESTS:

- correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to reflect he was promoted to the rank/grade of sergeant (SGT)/E-5
- appearance before the Board via video or telephonically

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 87 (Certificate of Training)

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 he was wearing SGT stripes a year before he was released from active duty and his training certificates reflect his rank as SGT.

3. A review of the applicant's service record shows:

a. On 24 September 1970, the applicant was inducted into the Army of the United States (AUS).

b. The applicant's DA Form 20 (Enlisted Qualification Record) shows in:

- Item 2 (Grade): specialist four SP4/E-4
- Item 3 (Date of Rank): 22 September 1971
- Item 33 (Appointments and Reductions):
  - private one (PVT)/E-1 date of rank 24 September 1970

- private two (PV2)/E-2 date of rank 24 January 1971
- private first class (PFC)/E-3 date of rank 26 March 1971; under the provisions of Headquarters (HQs), U.S. Army Signal School Special Orders Number 64
- SP4/E-4 dated of rank 22 September 1971; under the provision of HQs, 1st Infantry Division Special Orders Number 281

c. On 1 October 1970, Special Orders Number 190, issued by HQs, U.S. Army Reception Station Fort Knox, the applicant was discharged from the AUS, effective 30 September 1970 for enlistment in the Regular Army (RA).

d. On 1 October 1970, the applicant enlisted in the RA in the rank/grade PVT/E-1.

e. On 8 October 1971, Special Orders Number 281, issued by HQs, 1st Infantry Division and Fort Riley, the applicant was advanced to the rank/grade of SP4/E-4, effective 22 September 1971.

f. On 28 June 1972, Special Orders Number 180, issued by HQs, 1st Infantry Division and Fort Riley, the applicant was appointed to the grade of acting SGT.

g. On 21 June 1973, Special Orders Number 141, issued by HQs, 1st Infantry Division and Fort Riley, the applicant was relieved from active duty and assigned to the U.S. Army Reserve (USAR), effective 30 June 1973 in the grade E-4.

h. On 30 June 1973, the applicant was released from active duty and assigned to the USAR Control Group (Reinforcement). DD Form 214 shows the applicant completed 2-years and 9-months of active service. It also shows in:

- Item 5a (Grade, Rate or Rank): SP4
- Item 5b (Pay Grade): E-4
- Item 6 (Date of Rank): 22 September 1971

i. On 24 August 1976, Orders Number 08-1164982, issued by the Office of the Adjutant General Reserve Components Personnel and Administration Center, the applicant was honorably discharged from the USAR, effective 23 September 1976, in the rank of SP4.

4. The applicant provides DA Form 87 which shows the applicant completed the 1st Brigade Infantry Combat Skills Training course on 25 August 1972. It also shows his rank as SGT.

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 petition and available military records, the Board determined there is insufficient evidence to support the applicant's contentions for correction of his DD Form 214 to reflect he was promoted to the rank/grade of sergeant (SGT)/E-5. The applicant's statement indicated he was acting sergeant; the Board found the applicant's record is absent evidence that shows he was promoted to SGT/E-5 prior to his discharge. Based on regulatory guidance, promotion to SGT/E-5 are announced with official orders. The Board agreed the request for relief has no merit as the available evidence does not support the applicant was ever promoted to the rank of Sergeant (SGT). Therefore, relief is denied.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

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. 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. Army Regulation (AR) 15-185 (Army Board for Correction of Military Records (ABCMR)) 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 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.
3. AR 600-200 (Enlisted Personal Management System) in effect at the time, prescribes policies, responsibilities and procedures pertaining to career management of Army Enlisted personnel.
  - a. Paragraph 7-4 (Orders) promotion of enlisted personnel to the grade E-3 through E-9, appointments, grade reductions and grade restorations will be announced in routine orders.
  - b. Paragraph 7-10 (Acting noncommissioned officers), units, company, troop, battery and separate detachment commanders may appoint qualified individuals as acting corporals, E-4 and acting sergeants, E-5 to serve in position vacancies exiting in

their units, including those resulting from temporary absences of assigned noncommissioned officers.

c. Paragraph 7-15 (Eligibility and Selection Criteria), normal requirements necessary to establish an individual's eligibility for promotion are:

- Time in grade and time in service for promotion to E-5 8-months and 36-months respectively
- Promotable status
- Recommendation for promotion by the commander
- Board appearance and recommendation by selection board
- Position vacancy
- Cut-off scores

4. AR 635-5 (Separation Documents) in effect at the time prescribes the separation documents that will be furnished each individual who is separated from the Army. All available records will be used as a basis for the preparation of DD Form 214, including DA Form 20, and orders. Item 5a; enter the in which serving at the time of separation, indicating whether permanent or temporary.

//NOTHING FOLLOWS//