

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 October 2024

DOCKET NUMBER: AR20240001657

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show his rank as specialist 5 (SP5).

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

- DD Form 149 (Application for Correction of Military Record), 13 December 2023
- Special Orders (SO) Number 242, Headquarters (HQ), U.S. Army Personnel Center, 30 August 1969
- DD Form 214, for the period ending 30 August 1969
- U.S. Army Reserve (USAR) Letter Orders (LO) Number 11-411525, dated 1 November 1972
- USAR LO Number 10-1269485, dated 24 October 1973
- DD Form 256A (Honorable Discharge Certificate), 1 November 1973

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, his DD Form 214 currently shows specialist 4 (SP4) and should reflect his rank as SP5 when he departed Vietnam.
3. The applicant provides copies of:
 - SO Number 242 showing his rank as SP5 on the date of his release from active duty
 - His DD Form 214, dated 30 August 1969
 - USAR LOs dated 1 November 1972 and 24 October 1973 showing his rank as SP5
 - DD Form 256A showing his rank as SP5
4. A review of the applicant's service records show:

- a. On 14 November 1967, he was inducted into the Army of the United States.
- b. He was promoted on
 - 4 June 1968 to private first class (PFC)
 - 20 November 1968, temporarily to SP4, by voice of Commanding Officer, Unit Orders Number 49, HQ Company, 1st Battalion, 52nd Infantry
- c. On 4 August 1969, HQ, Americal Division issued SO Number 216, reassigning him to U.S. Army Vietnam Return Detachment for return to Fort Lewis. His rank was shown as SP4.
- d. His DA Form 137 (Installation Clearance Record), dated 29 August 1969, reflects his rank/pay grade as SP5/E-5.
- e. The following reflect his rank/pay grade as SP4/E-4:
 - DA Form 2376 (Notification to State Adjutants General Release from Active Duty of Obligated Reservist), 30 August 1969
 - DA Form 1811 (Physical and Mental Status on Release from Active Duty), 30 August 1969
- f. Special Orders Number 242, HQ, U.S. Army Personnel Center, dated 30 August 1969, released him from active duty in the rank/pay grade SP5/E-5.
- g. His DA Form 20 (Enlisted Qualification Record) shows he was promoted to SP4/E-4 (T) Temporary, on 11 November 1968.
- h. On 30 August 1969, he was honorably released from active duty. His DD Form 214 shows in
 - item 5a (Grade, Rate, or Rank) – SP4 (T)
 - item 5b (Pay Grade) E-4
 - item 30 (Remarks) – in part, "Item 5a: PFC (P) appointed 4 June 1968"
- i. His records are void of orders promoting him to SP5/E-5.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the request 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 his record is absent evidence that shows he was promoted to SP5/E-5 prior to his discharge. Based on regulatory guidance, promotion to SP5/E-5 are announced with official orders. Although there is some documentary evidence showing the applicant's rank as SP5, the Board agreed the request for relief has no merit as the available evidence does not support the applicant was ever promoted to the requested rank. Without a document reflecting the requested rank with a specific date of rank indicated, changing the rank of the applicant's DD Form 214 is not possible.

2. However, during deliberation, the Board determined the applicant's service record did not reflect he was awarded the Army Good Conduct Medal (1st Award) and his record shows he received "excellent" conduct and efficiency ratings throughout his service for the period of 14 November 1967 to 30 August 1969. Based on this the Board determined granted partial relief for correction of the applicant's record to show award of the Army Good Conduct Medal.

BOARD VOTE:

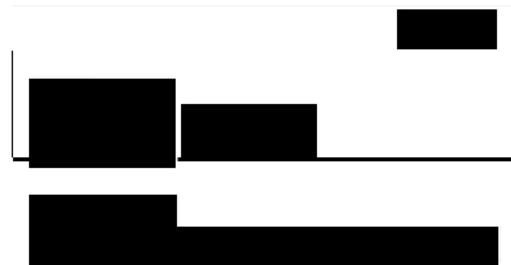
Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual be corrected by awarding him the Army Good Conduct Medal (1st Award) for exemplary service from 14 November 1967 to 30 August 1969 and adding the medal to his DD Form 214 for the period ending 30 August 1969.

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 correction of the applicant's DD Form 214 to show his rank as specialist 5 (SP5).



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 635-5 (Separation Documents), in effect at the time prescribed the separation documents that would be furnished each individual who was separated from the Army including Active-Duty Training personnel and established standardized procedures for the preparation and distribution of these documents. All available records would be used as a basis for the preparation of the DD Form 214, including DA Form 20, DA Form 66, and orders.

a. In item 5a (Grade, Rate, or Rank), enter grade in which serving at time of separation, indicating whether permanent (P) or temporary (T). Example: "MSG (P)" or "MSG (T)"

b. In item 5b (Pay Grade), enter pay grade, e.g., "E-8" or "E-4."

c. In item 30 (Remarks), b, subparagraph (7): If grade shown in item 5 is not permanent, enter permanent grade, date of appointment, and date of rank if different from date of appointment, as follows:

(1) "Item 5—CPL (P) (E-4) appointed 1 Aug 58."

(2) "Item 5—SP5 (T) (E-5) appointed 13 Sep 58, date of rank 1 Aug 58."

//NOTHING FOLLOWS//