

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 June 2025

DOCKET NUMBER: AR20240002259

APPLICANT REQUESTS: to be retired at the rank/grade of sergeant first class (SFC)/E-7.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for service ending 12 September 1980
- National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) for service ending 1 October 1990
- Western Union Mailgram for Orders Number M-12-241910 dated 20 January 1991
- NGB Form 23C dated 12 October 2021 shows the applicant earned 21-years of creditable service with the highest grade held of staff sergeant SSG/E-6
- Army Board for Correction of Military Records (ABCMR) letter for Docket Number AR20230002961 which referred the applicant to the NGB
- E-mail dated 10 January 2024 from the NGB which informed the applicant correction of his records is not in their purview and referred him to the ABCMR

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 retirement pay should be in the grade of E-7 versus E-5
- He held the rank of SSG for over 3-years for the period of 1987 through 1990
- He had a break in service during the period of 1990 through February 1995

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

- On 7 September 1979, the applicant enlisted in the Army National Guard in the rank/grade of private (PVT)/E-1
- On 13 June 1980, he was ordered to active duty for training and honorably released from active duty on 12 September 1980 in the rank of PVT
- On 16 July 1984, he was promoted to the rank/grade of sergeant (SGT)/E-5 with the same date of rank by Orders Number 18-2 dated 16 July 1984
- In the rank/grade of SGT/E-5 he extended his enlistment with the ARNG on 18 August 1985 and 22 September 1985
- He achieved course standards for the Primary Leadership Development Course during the period of 6 through 20 December 1986 in the rank of SGT
- On 1 August 1987, he was promoted to the rank/grade of SSG/E-6 with the same date of rank by Orders Number 20-5 dated 1 July 1987
- He achieved course standards for the Basic Noncommissioned Officer Course during the period of 30 January through 24 April 1988 in the rank of SSG
- On 1 October 1990, he was honorably released from the ARNG in the rank of SSG and assigned to the U.S. Army Reserve (USAR) Control Group (Annual Training) by Orders Number 198-4 dated 12 October 1990
- On 31 January 1991, he was ordered to active duty for mobilization in the rank of SSG by Orders Number M-12-241910 dated 20 January 1991
- On 20 March 1991, he was honorably discharged from the USAR in the rank of SSG by Orders Number D-03-902708
- On 24 February 1995, he enlisted in the ARNG in the rank/grade of specialist four/E-4
- On 1 May 1998, he was promoted to the rank/grade of SGT/E-5 with the same date of rank by Orders Number 13-05 dated 22 April 1998
- On 3 March 2004, he was notified of his eligibility for retired pay at age 60 by the Office of the Adjutant General, the notification shows his rank as SGT
- Personnel Qualification Record dated 17 December 2004 shows his rank/grade as SGT/E-5 with the date of rank of 1 May 1998
- On 1 February 2005, his commander was directed to separate him by the recommendation of the State Medical Duty Review Board
- On 15 February 2005, the applicant was notified of the separation action from the ARNG for a physical condition that may interfere with his assigned duties
- On 18 February 2005, he acknowledged the notification of separation and he waived his right to counsel, administrative separation board and to submit statements in his own behalf
- On 23 February 2005, he was honorably retired from the ARNG and assigned to the USAR Control Group (Retired Reserve) in the rank/grade of SGT/E-5
- On 24 February 2005, he requested to be assigned to the USAR Control Group (Retired Reserve) in the rank/grade of SGT/E-5 with the honorary retired grade of SFC/E-7 (one grade higher than the higher grade satisfactorily held)

- Retired Grade: One grade over highest grade ever satisfactorily held, this is an honorary promotion
- NGB Form 23A dated 3 March 2005, shows he earned 21-years of creditable service for retired pay and his highest grade held was SGT/E-5
- On 10 March 2005, he was notified of his eligibility for SC National Guard Retirement Pension, he is eligible to draw state pension with the first payment to begin on 28 September 2021, his separation grade was SGT/E-5 with the honorary state retirement grade of SSG/E-6
- On 24 February 2005, he was assigned to the State Retired List in the rank of SGT by Permanent Orders Number 084-007 dated 25 March 2005
- On 28 September 2021, he was placed on the Army of the United States Retired List in the rank of SGT/E-5
- DA Form 2-1 (Personnel Qualification Record) shows he was promoted to the rank of SSG, effective 1 August 1987

4. On 20 November 2024, in the processing of this case, the NGB, provided an advisory opinion regarding the applicant's request to be retired at the rank/grade of SFC/E-7. The advisory official recommended partial relief. The applicant should not be retired at the rank/grade of SFC/E-7; however, the applicant should be retired to the highest grade he held of SSG/E-6. His records shows that he had been promoted to the rank of SSG on 1 August 1987 and he satisfactorily held that rank until the time of his discharge from the SCARNG on 1 October 1990. Additionally, his records show his NGB Form 23 is in error and needs to be corrected to reflect his highest rank held of SSG for him to be retired in that rank.

5. On 12 December 2024, the Army Review Boards Agency, Case Management Division, provided the applicant the advisory opinion for review and comment. The applicant has not responded.

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. The Board reviewed and concurred with the National Guard Bureau's advising official finding partial relief was appropriate. The applicant should be retired to the highest grade held of staff sergeant (SSG)/E-6 as he was promoted to SSG/E-6 on 1 August 1987 and he held that rank satisfactorily until his discharge from the SCARNG on 1 October 1990. The advising official additionally adds that his NGB Form 23 is in error and should be amended to reflect the appropriate rank as SSG/E-6. However, the Board found insufficient evidence to support the applicant's request to be retired at the rank/grade of SFC/E-7.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>
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:	:	:	GRANT FULL RELIEF
:XX	:XX	:XX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- amending Orders C06-193873, dated 9 June 2021 to show retired grade as staff sergeant (SSG)
- amending NGB Form 23 (Army National Guard Current Annual Statement) to show the highest grade held as E06

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 amending the applicant's record to show his highest rank held as sergeant first class (SFC)/E-7.

X //signed//

CHAIRPERSON

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 (AR) 15-80 (Army Grade Determination Review Board and Grade Determinations) in effect at the time, establishes policies, procedures, and responsibilities of the Army Grade Determination Review Board (AGDRB) and other organizations delegated authority to make grade determinations on behalf of the Secretary of the Army (SA).
 - a. Paragraph 1-11 (Army Grade Determination Review Board), the AGDRB will make final discretionary grade determinations on behalf of the SA for:
 - Enlisted Soldiers at time of separation
 - Retiring or retired enlisted Soldiers or warrant officers in 30-year cases, these final grade determinations will be by majority vote; in all other cases considered by the AGDRB, the members of the AGDRB will recommend to the appropriate authority the highest grade satisfactorily served
 - b. Paragraph 3-1, for enlisted cases, the AGDRB will make final determinations on behalf of the SA. It will determine the highest grade in which a Soldier has served satisfactorily for purposes of service/physical disability retirement, computation of retired pay (10 USC 1406 or 1407), or separation for physical disability. While enlisted Soldiers may be reduced in grade by courts-martial, non-judicial punishment proceedings (Uniform Code of Military Justice, Article. 15), administrative separation proceedings, or inefficiency boards, enlisted grade determinations cannot result in reduction of an enlisted Soldier's or retiree's current grade. Enlisted grade determinations will result in either a decision to retain the individual's current grade or to advance to a higher grade in which the individual satisfactorily served.
3. AR 135-180 (Qualifying Service for Retired Pay Non-regular Service) in effect at the time, implements statutory authorities governing the granting of "retired pay" to Soldiers and former Reserve components Soldiers. Paragraph 2-1 (Computation of Retired Pay)
 - c. The Retired Activities Directorate, ARPERCEN will screen each retirement applicant's record to determine the highest grade held by him or her during his or her military service. In arriving at the highest grade satisfactorily held, the following criteria will apply:
 - If the Soldier was transferred to the Retired Reserve or discharged on or after

25 February 1975, retired grade will be that grade which a commissioned officer or enlisted Soldier held while on active duty or in an active reserve status for at least 185 days or six calendar months

- Service in the highest grade will not be deemed satisfactory and the case will be forwarded to the Secretary of the Army's Ad Hoc Review Board for final determination of the Soldier's retirement grade if, during the mandatory review of the Soldier's records by the Retired Activities Directorate, ARPERCEN, it is determined that any of the following factors exist:
 - Revision to a lower grade was expressly for prejudice or cause, due to misconduct, or punishment pursuant to Article 15, UCMJ, or court-martial; or
 - There is information in the Soldier's service record to indicate clearly that the highest grade was not served satisfactorily

//NOTHING FOLLOWS//