

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 November 2024

DOCKET NUMBER: AR20240002903

APPLICANT REQUESTS:

- reconsideration of his request for correction of his DD Form 214 (Certificate or Release or Discharge from Active Duty) to show his pay grade as private (PVT)/E-2
- in effect, removal of any reference to nonjudicial punishment from his Official Military Personnel File (OMPF)
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Service Record
- Summary of Charges and Supporting Information Final Suitability Determination Letter
- Congressional Correspondence

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20090021255 on 10 June 2010.

2. The applicant states his DD Form 4 (Enlistment/Reenlistment Document) shows he enlisted in the Army in pay grade E-2 due to his Boy Scouts of America Eagle Badge. In May 2023, he was denied a position with the National Park Service because the background investigation disclosed his Article 15 for violations of the Uniform Code of Military Justice (UCMJ).

3. The applicant enlisted in the U.S. Army Reserve (USAR) on 17 November 2001. His DD Form 4 shows his pay grade as E-2.

4. A USAR Guaranteed Educational Training form, dated 17 November 2001, shows the applicant enlisted in an advanced rank as a result of his completion of a required period of time as a member of the Junior Reserve Officers' Training Corps.
5. A U.S. Army Recruiting Command (USAREC) Form 1150-R-E (Statement of Understanding – Army Policy, USAREC Addendum to DD Form 1966 (Record of Military Processing) Series) dated 17 November 2001, shows his enlistment pay grade as E-2 in accordance with Army Regulation 601-210 (Regular Army and Army Reserve Enlistment Program), paragraph 2-20 (Enlistment Pay Grades for Personnel without Prior Service).
6. The applicant entered active duty on 2 July 2002, for the purpose of completing initial active duty training.
7. The applicant received formal entry level separation counseling on 8 August 2002, due to a medical condition while in entry-level status. The counseling form shows his rank/grade as PVT/E-2.
8. The applicant's service record is void of a separation packet containing the specific facts and circumstances surrounding his discharge processing.
9. The applicant was discharged on 6 September 2002. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 2 months and 5 days of active service. It also shows in:
 - Item 4a (Grade, Rate, or Rank): private (PV1)
 - item 4b (Pay Grade) – E-1
 - item 24 (Character of Service) – Uncharacterized
 - item 25 (Separation Authority) – Army Regulation 635-200, paragraph 5-17
 - item 26 (Separation Code) – JFV
 - item 27 (Reentry Code) – 3
 - item 28 (Narrative Reason for Separation) – physical Condition, not a Disability
10. On 17 May 2010, the U.S. Army Human Resources Command, Chief, Force Alignment Division, provided an advisory opinion recommending approval of the applicant's request, noting that his DD Form 214 had an error in grade. Additionally, there was a discrepancy in the Army systems that would identify the correct grade at the time of the applicant's separation.
11. The applicant petitioned the ABCMR requesting correction of his DD Form 214 to show his pay grade as E-2 rather than E-1. On 10 June 2010, the Board voted to deny relief and determined that the overall merits of the case were insufficient as a basis for correction of the applicant's records. The Board noted a Master Military Pay Account

provided by the Defense Finance Accounting Service showed a disciplinary infraction led to the applicant's reduction in rank/pay grade PVT/E-1 as the result of an Article 15 effective 28 August 2002.

12. The applicant's service record is void of documents containing the specific facts and circumstances surrounding his record of nonjudicial punishment.

13. The applicant provides a suitability determination letter that shows a Tier 1 investigation revealed his rank was reduced and he had a company grade Article 15 for violation of Article 92 and Article 134 of the UCMJ.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, 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 review based on law, policy, and regulation. The Board noted a Master Military Pay Account provided by the Defense Finance Accounting Service showed a disciplinary infraction led to the applicant's reduction in rank/pay grade PVT/E-1 as the result of an Article 15 effective 28 August 2002. The applicant was subsequently discharged from active duty in the rank/grade of PV1/E-1. The Board determined there was no error or injustice in the reduction of the applicant and therefore denied relief.

2. Upon review of the applicant's service record, the Board determined his OMPF is void of a documented/filed nonjudicial punishment. The Board noted regulatory guidance did not allow for the filing of nonjudicial punishments in the OMPF for those below the rank of SGT/E-5.

3. 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. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR.

a. Paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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.

c. Paragraph 2-15a governs requests for reconsideration. This provision of the regulation allows an applicant to request reconsideration of an earlier decision of the ABCMR. The applicant must provide new relevant evidence or argument that was not considered at the time of the ABCMR's prior consideration.

2. Army Regulation 600-8-104 (Personnel Separations – Military Personnel Information Management/Records) sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that Article 15s issued on or after 25 January 1990, for Soldiers in the grade of E-4 and below, would be filed locally in the unit nonjudicial punishment files. The DA Form 2627 (Record of Proceedings under Article 15, UCMJ) would not be filed in the official military personnel file of those Soldiers. Such locally filed originals would be destroyed at the end of two years from the date of imposition of punishment or on the Soldier's transfer to another general court-martial convening authority.

3. Army Regulation 635-5 (Separation Documents) prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. The version in effect at the time established standardized policy for preparation of the DD Form 214 (Certificate or Release or Discharge from Active Duty). The DD Form 214 is a synopsis of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of active Army service at the time of release from active duty, retirement, or discharge. It states the purpose of the separation document is to provide the individual with documentary evidence of his or her military service at the time of release from active duty, retirement, or discharge. It is important that information entered on the form be complete and accurate, reflective of the conditions as they existed at the time of separation. For item 4b, enter active duty pay grade at time of separation.

//NOTHING FOLLOWS//

