

IN THE CASE OF: [REDACTED]

BOARD DATE: 31 October 2024

DOCKET NUMBER: AR20240004333

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the U.S. Report of Transfer or Discharge) for the period ending on 28 April 1973 to reflect the rank/grade of sergeant (SGT)/E-5 rather than specialist four (SP4)/E-4.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record)

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 in pertinent part that his DD Form 214 is incorrect because it does not accurately reflect his rank as SGT. He contests that he attended the promotion board in 1972-1973 and was promoted to SGT in March 1973.
3. A review of the applicant's available service records reflects the following:
 - a. On 29 April 1970, the applicant enlisted in the Regular Army for 3 years.
 - b. On 30 June 1971, Headquarters, Eight U.S. Army Personnel and Administration Battalion issued Orders Number 181 announcing the applicant's promotion to the rank/grade of SP4/E-4, effective 3 June 1971.
 - c. On 13 February 1973, Headquarters, Presidio of San Francisco issued Special Orders Number 30 announcing the applicant's promotion to the rank/grade of specialist five (SP5)/E-5, effective 1 February 1973.
 - d. On 26 February 1973, Headquarters Presidio of San Francisco issued Special Orders Number 38 revoking Special Orders Number 30.

e. On 28 April 1973, Headquarters U.S. Army Personnel Center issued Orders Number 118 honorably relieving the applicant from active-duty, effective 28 April 1973, and transferring him into the U.S. Army Reserve (USAR) Control Group (Reinforcement) at the rank/grade of SP4/E-4

f. On 29 April 1970, the applicant was honorably released from active duty. DD Form 214 shows in item 5a (Grade, Rate, or Rank) "SP4", item 5b (Pay Grade) shows E-4, and item 6 (Date of Rank) shows 3 June 1971.

g. On 25 March 1976, the Reserve Components Personnel and Administration Center issued Letter Orders Number 03-1050293 honorably discharging the applicant from the USAR, effective 1 April 1976.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows special orders promoted the applicant to SP5/E-5 effective 1 February 1973. However, on 26 February 1973, these promotion orders were revoked. There are no other orders that confirm the applicant was promoted to SGT/E-5. Since the DD Form 214 reflects the rank/grade held by the Soldier at the time of their release from active duty, the Board determined there is insufficient evidence to correct the applicant's DD Form 214 to show the rank/grade of SGT/E-5.

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.

10/31/2024

X

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, 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) 600-200 (Enlisted Personnel Management System) Section III (Promotion to Pay Grades E-5 and E-6) provides promotion and establishes eligibility criteria of enlisted personnel of the active Army to pay grades E-5 and E-6 made against promotion point cut-off scores. Individuals promoted to the pay grades of E-5 and above will be announced on orders. The published orders will cite the authority for the promotion and the effective date. Orders revoking promotion will be issued when the commander who made the promotion or a higher commander determines that the promotion was not authorized by this chapter or other published promotion criteria established by Headquarters, Department of the Army.
3. AR 15-185 (ABCMR) 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.

//NOTHING FOLLOWS//