

IN THE CASE OF: [REDACTED]

BOARD DATE: 31 December 2024

DOCKET NUMBER: AR20240004612

APPLICANT REQUESTS: in effect, his demotion order be rescinded, rank of Master Sergeant (MSG) be restored with pay and allowances and retirement from the Active Guard Reserve (AGR) Program as an MSG/E8 on 31 May 2025.

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum, National Guard Bureau (NGB), 14 May 2012
- Self-authored Timeline, 23 February 2024
- Orders: 49-234-0024, Joint Force Headquarters [REDACTED] National Guard ([REDACTED] NG), 22 August 2019
- 0000277571.00, [REDACTED] Army National Guard ([REDACTED] ARNG), 24 March 2020
- 0000277571.01, [REDACTED] ARNG, 24 March 2020
- 0000278578.00, [REDACTED] ARNG, 24 March 2020
- Orders 254-0622, U.S. Army Installation Management Command, 10 September 2020
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- 0000793560.00, [REDACTED] ARNG, 5 November 2020
- Order 228-001, [REDACTED] Joint Force Headquarters, 16 August 2021
- Letter, NGB, 6 April 2022
- Memorandum, [REDACTED] NG, 8 August 2022
- 0001989803.00, [REDACTED] ARNG, 12 August 2022
- Memorandum, NGB, U.S. Property and Fiscal Office, 11 September 2022
- 0001989803.01, [REDACTED] ARNG, 30 September 2022
- Applicant Letter, 13 October 2022
- Army National Guard Current Annual Statement, 13 May 2022
- 3 DA Forms 2166-9-2 (Noncommissioned Officer Evaluation Report)
- 0002080325.00, [REDACTED] ARNG, 6 October 2024
- Email to ARBA with documents previously listed above, 5 November 2024
- Advisory Response Letters, 5 and 8 November 2024

FACTS:

1. The applicant states, in effect:

a. He is an AGR Soldier promoted to MSG on 17 March 2020, in a vacant MSG AGR position in the ■■■ ARNG; specifically, in UIC: W77841 in PARA/LINE 820/01. He served as an MSG while mobilized, and when released from Title 10 Mobilization orders. He received mobilization day (M-day) orders 18 October 2020, in the Operations NCO position in UIC: W77841 in PARA/LINE 820/01. He later received AGR orders 16 August 2021, in the same position in UIC: W77841 in PARA/LINE 820/01 to serve as the G3 Quota Source Manager, which today is still a valid AGR MSG position. He served for 30 months in that position when he received amended demotion orders to Sergeant First Class (SFC) with an effective date of 30 September 2022, approximately 6 months short of obtaining the 36 months, Time in Grade requirement to retire as an MSG.

b. He requested another Congressional Inquiry (CI) of his wrongful demotion through my Delegate to Congress on 4 November 2022, and was advised to submit to this Board due to the ■■■ ARN's delay or unwillingness to respond to his CI. All demotion orders appeared in his iPERMS without any prior counseling, or warning. The ordeal has caused him great anxiety and stress, which also has negatively affected his family life, forcing him to submit his retirement request earlier than he desired or planned. He took immense pride and joy being a Soldier, a Senior NCO, training and mentoring Soldiers, and this wrongful demotion has tainted his career and feelings towards the VIARNG.

2. The applicant is currently serving as a SFC/E7 in the ■■■ ARNG.

3. The applicant provides a timeline with supporting documents stating:

a. On 16 October 2019, he was to report for Title 10 mobilization with the 661st Military Police Detachment.

b. On 12 March 2020, he received a DA Form 4187 (Personnel Action) for promotion to MSG/E8 while mobilized with the 661st Military Police Detachment in Qatar. He called the State Command Sergeant Major (CSM) ■■■ to inquire about the promotion. The CSM referred him to MSG ■■■ G1 Senior Human Resources NCO, who explained to him that they identified an E8 AGR position vacancy and would transfer him back to the ■■■ NG in the system to that position, promote him, and immediately after the promotion, transfer him back (revoke the transfer order), in order for him to complete the mobilization with the 661st Military Police Detachment.

c. On 17 October 2020, he was released from mobilization orders, and he received orders 18 October 2020, in the M-day E8 Operations NCO in UIC w77841 ■■■ Training Site PARA/LINE 820/01, which is the same PARA/LINE he was promoted in.

d. On 16 August 2021, he received his E8 AGR orders in the same UIC W77841 in PARA/LINE 820/01, to serve as the G3 Quota Source Manager.

e. On 26 February 2022, MSG [REDACTED] called him and informed him that he was ordered by The Adjutant General (TAG) to input demotion orders for him. He told him the TAG's decision came from a meeting where he received guidance from the Human Resources Officer (HRO) LTC [REDACTED] who stated he was promoted erroneously in a traditional M-day position. MSG [REDACTED] told him he tried to explain to them that he was promoted in a vacant E8/MSG AGR position, but LTC [REDACTED] insisted, "[The applicant] was promoted erroneously!" TAG ordered him to execute the demotion.

f. On 27 February 2022, he received email notification that there were new documents in his iPERMS and he was shocked to see a demotion order with an effective date of 31 March 2022.

g. On 7 March 2022, he and 1SG [REDACTED] requested a CI of their demotions. As a result of the CI, on 26 March 2022, their demotion orders were revoked.

h. On 6 April 2022, the Honorable SP received correspondence from Colonel [REDACTED] who stated the applicant was "was promoted while deployed against a traditional vacancy (M-day) must revert back to pre-deployment grade." Which from what was previously shown is an inaccurate statement. He states he was promoted in an E8 AGR vacancy in [REDACTED] NG.

i. On 6 June 2022, he received orders moving him from the E8 AGR position to an excess position. Another MSG/E8 was placed in the previous position.

j. On 27 June 2022, he and 1SG [REDACTED] requested a meeting with TAG and other representatives and was informed 1SG LP and [the applicant's] cases were very different and should be looked at separately. The applicant was promoted in accordance with Army Regulation 600-8-19 (Enlisted Promotions and Reductions) and ARNG-HRM Memorandum dated 14 May 2012, Subject: Temporary Controlled Grades for Enlisted AGR Soldiers Promoted During Mobilizations. Paragraph 3, "States and territories electing to promote an AGR Soldier in support of a mobilization must identify an AGR position at the higher grade for the Soldier or reduce the Soldier to their former grade prior to returning to a U.S. Code Title 32 AGR status." The applicant's promotion is not erroneous. The HRO disagreed with no references or documentation, only stating he was promoted erroneously, TAG followed her guidance and ordered the demotions.

k. On 8 August 2022, The G1 submitted a memorandum on his behalf to the U.S. Property Fiscal Officer (USPFO), Subject: Reduction in Grade and De Facto Status.

l. On 12 August 2022, he received his second demotion order with an effective date of 11 August 2022.

m. On 11 September 2022, the USPFO responded to the G1 stating, "[the applicant's], promotion was valid, therefore a request for de facto consideration on the basis the service member's (SM) promotion was erroneous, is not factually accurate. Therefore, a request for de facto consideration should not have been submitted to my office on the SM's behalf." ■■■■ ignored USPFO response and amended his demotion order.

n. On 30 September 2022, his demotion order was amended to an effective date of 30 September 2022, six months shy of accruing 36 months active service obligation necessary for him to retire at the higher grade.

o. On 6 October 2022, he met with the HRO LTC ■■■■ in her office, after LTC ■■■■ ■■■■'s Staff Judge Advocate (SJA) suggested he speak with her. In the meeting with LTC ■■■■ he was asked to pick from existing E7 AGR positions to go into. He explained to LTC ■■■■ that the new demotion effective date left him 6 months shy of eligibility to retire at highest grade attained, and he would have 20 years active duty in September 2023, according to his NGB Form 23A (Army National Guard Current Annual Statement). LTC ■■■■ response was, "Why didn't you tell us that?! I would have taken the hit, and given you back your E8 to give you the time to retire as an E8, if that is what you wanted to do." It was from that statement he realized, LTC ■■■■ was not adhering to any Army regulations and Human Resource Management (HRM) Policy Memorandums concerning his promotion, instead she feels she has the power to promote and demote him as she sees fit, by ignoring Army Regulations and HRM Policy Memorandums.

p. On 13 October 2022, he submitted a second CI into his demotion and what appears to be a personal attack on him and his career by LTC ■■■■

q. On 4 November 2022, he was informed his case was sent back from NGB to the ■■■■ NG SJA for their response. Ms. ■■■■ Delegate to Congress advised him to draft this timeline and send to the Board as an official Inspector General (IG) complaint submission.

r. On 17 November 2022, he submitted an IG complaint to his local IG who on 21 November 2022, stated he was instructed not to investigate his case. He recommended the applicant submit his complaint to the Department of Defense.

4. He further provides a/an:

a. Memorandum, Chief, Personnel Programs, Resources and Manpower Division, NGB, 14 May 2012, Subject: Temporary Controlled Grades for Enlisted AGR Soldiers Promoted During Mobilizations.

b. Orders: 49-234-0024, Joint Force Headquarters ■■■ NG, 22 August 2019, which ordered him to active duty as a member of his Reserve Component Unit in rank SFC, effective 16 October 2019.

c. Order 0000277571.00, ■■■ ARNG, 24 March 2020, permanent assignment revoked, effective 17 March 2020.

d. Order 0000278578.00, ■■■ ARNG, 24 March 2020, Promotion One Grade, effective 17 March 2020.

e. Orders 254-0622, U.S. Army Installation Management Command, 10 September 2020, releasing him from active duty effective 17 October 2020.

f. DD Form 214 for the period ending 17 October 2020, shows rank of MSG.

g. Order 0000793560.00, ■■■ ARNG, 5 November 2020, Intra Command Move, effective 18 October 2020.

h. Order 228-001, ■■■ Joint Force Headquarters, 16 August 2021, ordering him to full-time NG duty in AGR status effective 18 August 2021.

i. NGB letter, 6 April 2022, in response to Cl.

j. Memorandum thru MAJ ■■■ Commander, Headquarters and Headquarters Detachment, ARNG Staff Element, Joint Force Headquarters, from the Deputy Chief of Staff, Personnel, COL ■■■ 8 August 2022, Subject: Reduction in Grade and De Facto Status pertaining to the applicant.

k. Order 0001989803.00, ■■■ ARNG, 12 August 2022, Demoting the applicant effective 11 August 2022, due to returning from mobilization in higher grade.

l. Memorandum from COL ■■■ USPFO for ■■■, 11 September 2022, disapproving de facto consideration for the applicant.

m. Order 0001989803.01 amending Order 0001989803.00 as of 30 September 2022, demotion rank/grade entry date 12 August 2008.

n. Order 0002080325.00, ■■■ ARNG, 6 October 2022, effective 30 September 2022, demotion rank/grade entry date of 12 August 2008.

- o. 3-page CI from the applicant, 13 October 2022.
 - p. NGB Form 23A, prepared 13 May 2022.
 - q. 3 DA Forms 2166-9-2, 16 October 2019 - 8 August 2020; 18 October 2020 - 17 October 2021; and 18 October 2021 - 30 September 2022, serving as a MSG.
5. During the processing of this case, on 23 October 2023, an advisory opinion was obtained from the Chief, Special Actions Branch, NGB who recommended denial of the applicant's request, stating:
- a. Soldier served in the AGR program of the [REDACTED] ARNG and mobilized on Title 10 orders with a report date of 16 October 2019. Soldier was promoted to MSG/E8 with a date of rank of 17 March 2020. Soldier was released from Title 10 mobilization on, 17 October 2020. Soldier reentered the AGR program as an E8. Soldier was later demoted to E7/SFC on 6 October 2022, with an effective date of 30 September 2022, after several amendments to his demotion order that was originally effective 31 March 2022. Soldier has submitted a timeline of events, HRM memorandum, assignment orders, [REDACTED] ARNG memorandum response and NGB memorandum response.
 - b. After review of the Soldier's submission and record, Soldier competed for promotion as a traditional M-day guardsman while on Title 10 deployment and accepted a promotion to E8/MSG effective 17 March 2020, IAW Army Regulation 600-8-19. In a memorandum from ARNG-HRM dated 14 May 2012, "States and territories electing to promote an AGR Soldier in support of a mobilization must identify an AGR position at the higher grade for the soldier or reduce the Soldier to their former grade prior to returning to AGR status." It was determined there were no control grades available to be able to retain Soldier at the E8 grade. Soldier would be demoted to E7 to return to AGR status.
 - c. Soldier applied for de facto status that was denied by the VI's USPFO as Soldier's promotion was not erroneous. De facto status would allow the Soldier to retain pay and allowances received at the higher pay. [The applicant's] demotion should have been effective 18 October 2020 and was not actioned until 06 October 2022 with an effective date of 30 September 2022. Soldier should retain pay and allowances until effective date of demotion, 30 September 2022.
 - d. It is the recommendation of this office that the applicant's request be denied. Soldier was mobilized and promoted IAW Army Regulation 600-8-19 as a traditional M-day Soldier. Soldier's effective date of demotion to E7 IAW HRM's memorandum should be 18 October 2020 upon reentering the AGR Title 32 status. Soldier's current demotion is effective 30 September 2022. Soldier served and performed in the E8 position until

his current effective demotion and his demotion should not be further amended however Soldier's request should be denied.

6. On 8 November 2024, the applicant responded to the advisory opinion stating, in effect:

a. He was mobilized on Title 10 orders when he received a DA 4187 in March 2020 informing him of a promotion to E8/MSG. He immediately called the State CSM [REDACTED] inquiring if the promotion position was an E8 AGR position. CSM [REDACTED] referred him to MSG [REDACTED] the then G1 Operations NCO, who informed him that the G2/3 Operations NCO position was vacant, and it is the control grade AGR E8 position for the G3 Quota Source Manager in UIC: W77841 para/line: 820/01, position no: 03167985. CSM [REDACTED] and MSG [REDACTED] explained they would submit transfer orders in the system which would temporarily move him from Title 10 Mobilized position to the [REDACTED] ARNG control grade E8 AGR PARA/LIN position. They would promote him into the position, and then revoke the transfer orders, for him to complete his Title 10 mobilization orders. From his documents and orders, he shows that he was promoted IAW Army Regulation 600-8-19 and ARNG-HRM memorandum dated 14 May 2012 Subject: Temporary Controlled Grades for Enlisted AGR Soldiers Promoted During Mobilizations, paragraph 3, which states; "States/Territories electing to promote an AGR Soldier in support of a mobilization must identify an AGR position at the higher grade for the Soldier or reduce the Soldier to their former grade prior to returning to a Title 32 AGR status." According to his orders a control grade E8 AGR position was identified for him to be promoted into. He received my M-day orders in [REDACTED] ARNG at the end of his Title 10 mobilization orders, in the same control grade E8 AGR position in UIC: W77841 para/line: 820/01, position no: 03167985, which from his promotion orders is the same position. He later received his Title 32 AGR orders in the same control grade E8 AGR PARA/LIN position 16 August 2021. He was not reduced to his previous rank of SFC prior to returning to Title 32 AGR status.

b. He worked in that control grade E8 AGR PARA/LIN position from 18 October 2020 to 27 February 2022, when he was blindsided with demotion orders in his iPERMS, with an effective demotion date of 31 March 2022. He and 1SG [REDACTED] submitted a joint CI about their demotions. Due to the CI, their demotion orders were revoked. They received a response from NGB which stated "However, former AGR Soldiers who are promoted while deployed against a traditional vacancy must revert to their original pre-deployment grade upon reentering the AGR force." According to his promotion orders, M-day orders, and AGR orders, he was not promoted against a traditional vacancy, but rather according to his orders promoted in a vacant control grade E8 AGR PARA/LIN position.

c. His response to paragraph c. of the advisory opinion where it states, "Soldier applied for de facto status that was denied by the Virgin Island's USPFO as Soldier's

promotion was not erroneous." The de facto status application was submitted on his behalf by the then G1 COL PJC, thru MAJ [REDACTED] the unit commander without his knowledge and permission, because he has always maintained he fairly earned his MSG rank. To his understanding the [REDACTED] USPFO COL DVL did not deny but rejected the de facto status stating, "[the applicant] returned from deployment on 17 October 2020, however no action was taken to reduce the SM to his former grade when it was determined no current valid voucher was available to support an AGR E8 position. [The applicant], promotion was valid, therefore a request for de facto consideration on the basis the SM's promotion was erroneous, is not factually accurate. Therefore, a request for de facto consideration should not have been submitted to my office on the SM's behalf."

d. All his documentation/orders show that he was promoted in an E8 AGR PARA/LIN vacant position, specifically: UIC: W77841, para/line: 820/01, position no: 03167985. He received M-day orders in the same E8 AGR PARA/LIN position after deployment 18 October 2020, and subsequently about 10 months later received his E8 AGR Title 32 orders dated 16 August 2021 in the same control grade E8 AGR PARA/LIN position.

e. Although all his documentation shows he was promoted IAW Army Regulation 600-8-19 and ARNGHRM memorandum dated 14 May 2012 Subject: Temporary Controlled Grades for Enlisted AGR Soldiers Promoted During Mobilizations, paragraph 3, where the [REDACTED] ARNG did elect to promote him while mobilized and did identify an AGR position at the higher grade, and did not reduce him to his former grade prior to returning to Title 32 AGR status, the then HRO LTC [REDACTED] dismissed the documentation and ignored the [REDACTED] USPFO response, and advised TAG that he should be demoted. Per LTC [REDACTED] erroneous guidance MG [REDACTED] ordered a new demotion order be submitted for him with an effective date 30 September 2022.

f. His current demotion date is effective 30 September 2022, exactly 6 months short of the 3-year TIG requirement to retire at the MSG rank. He is requesting his demotion order be revoked, and his MSG rank be restored and he be reimbursed all pay and allowances lost from 30 September 2022 to present and to retire from the [REDACTED] ARNG as an E8/MSG on 31 May 2025.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the evidence showing a lack of MSG positions available prior to the applicant remobilization action and the findings outlined in the NGB advisory opinion, the Board concluded there was insufficient evidence of an error or injustice which would warrant a change to the applicant's rank.

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.

3/31/2025

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. NGB Memorandum, dated 14 May 2012, SUBJECT: Temporary Controlled Grades for Enlisted AGR Soldiers Promoted During Mobilizations. Effective immediately, ARNG-HRM will no longer provide temporary controlled grades for enlisted AGR Soldiers promoted in conjunction with a mobilization.

a. Under previous business rules, ARNG-HRM would provide a temporary controlled grade for a period of up to 12 months after mobilization in order to provide the opportunity for those enlisted Soldiers to accrue the two years' active service obligation necessary for Soldiers to retire at the higher grade. IAW new guidance from the Assistant Secretary of the Army, Manpower and Reserve Affairs, the active service obligation requirement for enlisted promotions to the grades of E7 and above is now three years. The longer active service obligation would require temporary controlled grades to be authorized for up to 24 months after mobilization. This is not affordable.

b. States/Territories electing to promote an AGR Soldier in support of a mobilization must identify an AGR position at the higher grade for the Soldier or reduce the Soldier to their former grade prior to returning to a Title 32 AGR status.

2. Army Regulation 15-185 prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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//