

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 January 2025

DOCKET NUMBER: AR20240004908

APPLICANT REQUESTS: in effect,

- award of the Purple Heart
- award of the Bronze Star Medal
- correction of the name listed on his Certificate of Retirement
- correction of his discharge rank/grade to Staff Sergeant (SSG)/E-6

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 the period ending 30 September 2013
- Certificate of Retirement

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 Board will not consider the applicant's request for entitlement to the Purple Heart, as there is no evidence he first applied to the Army Human Resources Command (AHRC) for their action. Army Regulation 15-185 (ABCMR), the regulation under which this Board operates, stipulates that the Board will not consider an application until the applicant has exhausted all available administrative remedies to correct the alleged error or injustice. He may submit a request to the AHRC Awards and Decorations Branch in letter format to the below address; do not submit the request using a DD Form 149. The request to AHRC should include a copy of his DD Form 214 and any other documentation supporting the request (for example: orders, casualty report, a line of duty investigation, sworn eyewitness statements, and medical documents).

Commander, U.S. Army Human Resources Command
ATTN: AHRC-PDP-A /Department 480
1600 Spearhead Division Avenue
Fort Knox, Kentucky 40122

3. The Board will not consider correction of the name listed on his Certificate of Retirement, as this item will be administratively corrected.
4. The applicant states, he was promotable to SSG/E-6 when he was disabled.
5. The applicant enlisted in the Army National Guard on 12 September 2007. He served in military occupational specialty 68E (Dental Specialist).
6. On 3 February 2010, he entered active duty and served in Afghanistan from 13 March 2010 to 14 January 2011. He was honorably released from active duty on 16 March 2011. The DD Form 214 he was issued shows he was awarded or authorized the:
 - Afghanistan Campaign Medal with 1 bronze service star
 - North Atlantic Treaty Organization Medal
 - Army Commendation Medal (2nd Award)
 - Army Good Conduct Medal
 - National Defense Service Medal
 - Global War on Terrorism Service Medal
 - Army Service Ribbon
 - Overseas Service Ribbon
 - Armed Forces Reserve Medal with M Device
 - Combat Action Badge
7. He was promoted to the rank/grade of Sergeant (SGT)/E-5 on 15 June 2012.
8. Orders 302-814, Military Department of Arkansas, Office of the Adjutant General, 29 October 2013, shows effective 24 October 2013, he was administratively reduced from SGT/E-5 to Specialist (SPC)/E-4.
9. On 7 April 2014, he was discharged under honorable conditions in the rank/grade of SPC/E-4 due to misconduct.
10. On 13 October 2022, the Board recommended his National Guard Bureau (NGB) Form 22 for the period ending 7 April 2014 be corrected to show his service as honorable and the narrative reason as Secretarial Authority. The Board denied so much of his application that pertained to changing his type of discharge without evaluation under the Army Disability Evaluation System and award of the Purple Heart.

11. On 30 January 2024, the applicant was informed based on a recommendation from the Board, his original discharge was revoked, and a permanent disability retirement order, and an NGB Form 22a (Correction to NGB Form 22) to correct his NGB Form 22 was published to reflect a permanent disability retirement with a combined disability rating of 100% and made retroactive to the date of his original discharge.

12. His Official Military Personnel File contains an Enlisted Record Brief dated 22 October 2013. The form lists his date of rank to SGT/E-5 as 15 June 2012. The form does not indicate the applicant was promotable to the rank/grade of SSG/E-6.

13. The applicant provides a copy of his Certificate of Retirement which shows his first name incorrectly spelled.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, 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 and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military record, the Board determined the applicant's contentions for award of the Bronze Star and correction of his discharge rank/grade to Staff Sergeant (SSG/E-6) is without merit. The Board found no evidence that the applicant was recommended for or awarded the Bronze Star Medal during his period of service.

2. Furthermore, the applicant's request to correct his discharge rank/grade to SSG/E-6, the Board noted while the applicant states he was promotable to SSG/E-6 at the time of his disability, his Enlisted Record Brief dated 22 October 2013 does not reflect promotable status to that rank. The Board acknowledged, the last documented promotion was to Sergeant (SGT)/E-5 on 15 June 2012, and the applicant was subsequently reduced to Specialist (SPC)/E-4 prior to discharge. Therefore, the Board agreed there is no basis for granting relief.

BOARD VOTE:

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

BOARD DETERMINATION/RECOMMENDATION:

Except for the correction addressed in Administrative Note(s) below, the Board found 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.

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.

ADMINISTRATIVE NOTE(S):

Issue the applicant a new Certificate of Retirement reflecting his name and rank as listed on his NGB Form 22 ending 7 April 2014.

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 600-8-22 (Military Awards) states the Bronze Star Medal is awarded in time of war for heroism and for meritorious achievement or service, not involving participation in aerial flight, in connection with military operations against an armed enemy, or while engaged in military operations involving conflict with an opposing armed force in which the United States is not a belligerent party. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.
3. Title 10, U.S. Code, section 1130, provides the legal authority for consideration of proposals for decorations not previously submitted in a timely fashion. Upon the request of a Member of Congress, the Secretary concerned shall review a proposal for the award of or upgrading of a decoration. Based upon such review, the Secretary shall determine the merits of approving the award.
4. The request, with a DA Form 638 (Recommendation for Award), must be submitted through a Member of Congress to the Secretary of the Army at the following agency: Commander, U.S. Army Human Resources Command, ATTN: AHRC-PDP-A, 1600 Spearhead Division Avenue, Fort Knox, KY 40122. The applicant's unit must be clearly identified along with the period of assignment and the award being recommended. A narrative of the actions or period for which recognition is being requested must accompany the DA Form 638. Requests for consideration of awards should be supported by sworn affidavits, eyewitness statements, certificates, and related documents. Corroborating evidence is best provided by commanders, leaders and fellow Soldiers who had personal knowledge of the circumstances and events relative to the request. The burden and costs for researching and assembling documentation to support approval of requested awards and decorations rest with the requestor.
5. Army Regulation 600-8-19 (Enlisted Promotions and Reductions) prescribes policies and procedures governing promotion and reduction of Army enlisted personnel. Chapter 7 addresses the promotion and reduction of Army National Guard personnel. The Enlisted Promotion System is designed to help fill authorized enlisted vacancies in the noncommissioned officer (NCO) grades with the best qualified Soldiers who have demonstrated the potential to serve at the next higher grade. For NCO grades, it also

prescribes the NCO Education System requirements for promotion. Soldiers must meet NCOES requirements to qualify for consideration by a promotion board. The chapter precludes promoting Soldiers who are not productive or are not the best qualified.

6. 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. 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//