

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 December 2024

DOCKET NUMBER: AR20240005725

APPLICANT REQUESTS: correction of rank to reflect placement on the Retired List at the highest held rank of sergeant first class (SFC)/E-7 rather than staff sergeant (SSG)/E-6.

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

- DD Form 149 (Application for Correction of Military Record)
- Orders Number 341-99, 8 December 1998
- Memorandum – Subject: Notification of Eligibility for Retired Pay at Age 690 (20-Year letter), 30 May 2001

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 he was promoted to SFC on 8 December 1998 and remained as such for over two years. He received his 20-Year letter on 30 May 2001 and was later placed in the U.S. Army Reserve (USAR) Retired Reserve at the rank of SSG.
3. A review of the applicant's available service records reflects the following:
 - a. On 30 April 1981, the applicant enlisted in the USAR.
 - b. On 8 December 1998, Headquarters, 63rd Army Regional Support Command issued Orders Number 341-99 announcing the applicant's conditional promotion to SFC, effective 1 January 1999. As a condition of the promotion, that applicant was required to complete the Noncommissioned Officer Educational System (NCOES) Course required for this grade. This order further provides that the applicant understood and agreed that if he failed to meet these conditions, or is subsequently denied enrollment, or becomes an academic failure, or does not meet graduation requirements, or is declared a "No-

Show", he would be subject to reduction under Army Regulation (AR) 140-158 (Enlisted Personnel Classification, Promotion and Reduction), paragraph 7-12d., to the grade and rank held prior to this promotion. The applicant further understood that if reduced, service performed in the higher grade would not be considered in determining retirement grade, date of rank, or any other determinations dependent on the higher grade.

c. On 30 May 2001, the applicant was issued a 20-Year letter.

d. On 14 May 2002, Headquarters, 63rd Regional Support Command issued Orders Number 02-134-00022 announcing the applicant's reduction in rank from SFC to SSG, effective 20 May 2002, in accordance with AR 140-158, paragraph 7-12d-g.

e. On 15 September 2003, the U.S. Army Reserve Personnel Command issued Orders Number C-09-322384 reassigning the applicant to the USAR Control Group (Retired Reserve), effective 12 September 2003, at the rank of SSG.

f. On 13 March 2024, the U.S. Army Human Resources Command (AHRC) issued Orders Number C03-492799 placing the applicant on the Retired List, effective 23 April 2024, at the rank of SSG.

4. On 29 October 2024, the AHRC, Chief, Personnel Services Division, provided an advisory opinion recommending denial of the applicant's request noting that after review of the applicant's service records, he was promoted to SFC on condition that he must complete the required NCOES course for the grade to which he was promoted. He was reduced from SFC to SSG according to Orders Number 02-134-00022 under the authority of AR 140-158, paragraph 7-12 (d-g). According to Orders Number 341-99, the applicant failed to complete the requirements to retain his promotion. Therefore, the applicant was retired as an SSG.

5. On 13 November 2024, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments. As of 29 November 2024, the applicant has not responded.

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 request and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's request, available military records and Army Human Resources Command – Personnel Services Division Advisory, the Board

concurred with the advising official recommendation for denial finding the applicant was promoted to the rank of sergeant first class on a condition that he must complete the required Noncommissioned Officer Educational System (NCOES) Course for the grade to which he was promoted.

2. The Board noted, the applicant was reduced from sergeant first class to staff sergeant as reflected on Orders Number 02-134-00022 under the authority of Army Regulation 140-158, paragraph 7-12 (d-g). Furthermore, according to Orders Number 341-99, the applicant failed to complete the requirements to retain his promotion. Therefore, the applicant was retired as an SSG. The Board agreed there is insufficient evidence to support the applicant's contentions for correction of rank to reflect placement on the Retired List at the highest held rank of sergeant first class (SFC)/E-7 rather than staff sergeant (SSG)/E-6. Therefore, the Board denied relief.

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. 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. AR 140-158 (Enlisted Personnel Classification, Promotion and Reduction), prescribes policy and procedures governing the classification, advancement, promotion, reduction, and grade restoration of applicable U.S. Army Reserve Soldiers.
 - a. Paragraph 7-12 (Other Reasons for Reduction) provides that a Soldier who accepts a promotion with the condition that he or she must enroll in, and successfully complete, a specified NCOES course and fails to meet those conditions, or is subsequently denied enrollment, or becomes an academic failure, or does not meet graduation requirements, or is declared a "No-Show", will be reduced to the grade and rank held prior to the conditional promotion. The effective date of the reduction will be the date of the reduction order. However, service performed in the higher grade will not be considered for retirement, date of rank, or any other determinations dependent on the higher grade.
 - b. Section 1 (NCOES Requirements) provides that successful completion of a NCOES course, either a resident or corresponding studies course, is required of all USAR NCOs commensurate with grade and rank. To be promoted to SFC, service

members must be a graduate of the Advanced or Senior Noncommissioned Officer Course.

//NOTHING FOLLOWS//