

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 April 2025

DOCKET NUMBER: AR20240005939

APPLICANT REQUESTS: reconsideration of his previous request:

- Standby Advisory Board (STAB) for Fiscal Year 2017 (FY17) sergeant first class (SFC) Promotion Selection Board (PSB)
- waive requirement of Senior Leaders Course (SLC) for Professional Military Education (PME) promotion prerequisite
- promotion to the rank of SFC/E-7 with the Date of Rank (DOR) of 1 November 2017
- back pay and allowances for difference between the rank/grade of staff sergeant (SSG)E/-6 and SFC
- all retirement documents and DD Form 214 (Certificate of Release or Discharge from Active Duty) to reflect rank and pay grade of SFC and DOR of 1 November 2017
- a personal appearance video/telephone

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

- DD Form 149 (Application for Correction of Military Record)
- Executive Summary – reflective of the applicant's highlighted contentions directly contributing to his non-selection for promotion to SFC; unauthorized changes to the duty description on his Enlisted Record Brief (ERB) in violation of the governing regulatory guidance
- Email communication – reflective of the applicant's April 2024 request for master sergeant K_L_ regarding the January 2016 – January 2017 evaluation provided to SSG G_B_ wherein his duty position inaccurately reflected his duty assignment as a Platoon Sergeant; response requested
- Memorandum – Subject: SSG D_B_ Army Board for Correction of Military Records (ABCMR) Case Number AR20220011895, 25 April 2024 – Lieutenant Colonel (LTC) C_N_ certifies that the statement provided although absent of the raised notary seal is his official statement; the State of Virginia does not mandate an embossed raised seal
- Memorandum – Subject: SSG D_B_ ABCMR Case Number AR20220011895, 25 April 2024 – LTC C_N_ statement regarding the compromised integrity of the applicant's board file:

- based upon unauthorized changes that were made after the applicant certified its contents; applicant deployed to the Combat Training Center (CTC) after certifying his file and was unaware of the changes made to his ERB constituting a material error in accordance with Army Regulation (AR) 600-8-19 (Enlisted Promotions and Reductions)
- Memorandum – Subject: Major (MAJ) R_R_ Statement Concerning Platoon Sergeant Rating from October 2016 – March 2018, 26 April 2024 – MAJ R_R_ statement regarding the applicant's duty assignment;
 - MAJ R_R_ rated the applicant from September 2016 – September 2017 in his assigned position as the Component Repair Platoon Sergeant; he and the applicant were performing temporary duty at the CTC from 6-31 May 2017; applicant certified his board file prior to departing;
 - 1 June 2017, the applicant identified a change in his ERB duty position from Platoon Sergeant to Section Sergeant; subsequent investigation found that the change was made by the unit Adjutant on or about 31 May 2017, presumably at the request of another Soldier (SSG G_B_)
- Statement (SSG C_R_) statement regarding the Platoon Sergeant's that he served under from 2012 – October 2017; September 2016 – February 2017 he deployed to Africa with SSG G_B_; contests that he did not serve as a Platoon Sergeant during that period nor any other period of his assignment to the unit in an official capacity
- Email communication from MSG K_L_ - reflective of her response to the applicant concerning previously constructed evaluation reports
- DA Form 2166-9-2 (NCO Evaluation Report (SSG-1SG/MSG) – reflective of MSG K_L_ evaluation while serving as the Component Repair Platoon Sergeant for the period of 16 January 2016 – 14 January 2017; MSG K_L_ held the rank of SFC during this period
- ERB (MSG K_L) (at the rank of first sergeant/1SG) – reflective of MSG K_L_ pertinent personnel information to include assignment history and duty positions
- U.S. Army Human Resources Command (AHRC) letter, 3 August 2023 – evaluation of SSG G_B_ for the period of 16 January 2016 – 14 January 2017 provided under the Freedom of Information ACT; duty position of Component Repair Platoon Sergeant
- ERB (SSG G_B_) (at the rank of MSG) – reflective of SSG G_B_ pertinent personnel information to include assignment history and duty positions; Platoon Sergeant 16 January 2016 – 14 January 2017
- DA Form 2166-9-2 – evaluation of the applicant's performance while serving as an Aircraft Component Repair Supervisor from 3 May 2016 – 2 September 2016; rated as number 1 SSG within the platoon

- DA Form 2166-9-2 - evaluation of the applicant's performance while serving as the Component Repair Platoon Sergeant from 3 September 2016 – 2 September 2017; rated as number 2 of 8 SSGs currently being rated
- DA Form 2166-9-2 - evaluation of the applicant's performance while serving as the Platoon Sergeant from 3 September 2017 – 2 January 2018; rated as number 1 of 3 Platoon Sergeants within the company
- ERB (SSG D_B_) reflective of the applicant's pertinent personnel information to include assignment history and duty positions; illegible duty position dates
- Addendum to Previously Submitted Request – indicative of the applicant being assigned as a Platoon Sergeant in October 2016; notified of unauthorized changes to his ERB on 1 June 2017; citing the errors in his ERB duty position as a material error as defined in AR 600-8-19 warranting promotion reconsideration by a STAB

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the ABCMR in Docket Number AR20220011895 on 2 August 2023.
2. The applicant states in pertinent part that the change in his duty position as reflected on his ERB and reviewed by the FY17 SFC Promotion Board, constitutes a material error which should warrant promotion reconsideration by a STAB.
3. A review of the applicant's available service records reflects the following:
 - On 23 June 2005 – the applicant enlisted in the Regular Army at the rank of specialist (SPC)/E-4; previously served in the U.S. Navy for 4 years
 - On 26 November 2011 (Orders Number 330-035) – promotion the applicant to SSG, effective 1 December 2011
 - 21 March 2013 – completed the Advanced Leaders Course
 - 17 March 2020 (Orders Number 077-0001) – reassigned the applicant for separation processing, effective 31 December 2020
 - 31 December 2020 – honorably retired from military service at the rank of SSG
4. A review of the applicant's ERB (1 January 2021) reflects the following duty assignments and periods:
 - 17 October 2015 – 14 June 2016: Aircraft Structure Repair Supervisor
 - 15 June 2016 – 27 October 2016: Aircraft Component Repair Supervisor
 - 28 October 2016 – 1 January 2018: Platoon Sergeant
 - 2 January 2018 – 8 December 2019: Aircraft Structure Repair

5. On 2 August 2023, ABCMR Docket Number AR20220011895 the Board denied the applicant's request noting that the ERB is not considered a source document for data validation. The Board further noted that evidence in the record reflects that he did not receive an evaluation for either of the cited duty positions and as such the selection board would not have known that the assignment on his ERB was in incorrect duty position. In addition, the Board found there was insufficient evidence to support the request for promotion to the rank of SFC with the DOR of 1 November 2017 or back pay and allowances for difference between the rank/grade of SSG and SFC. Furthermore, the Board concluded there was insufficient evidence of an error or injustice which would warrant a change to the applicant's rank and/or STAB consideration. Based on the advisory opinion and evidence in the record, the Board denied relief.

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 available documentation, the Board made the following findings and recommendations related to the requested relief:

- STAB for FY17 to SFC: DENY, based upon a lack of justification for such action. The Board determined that based upon the applicant's argument in support of such action being that his ERB reflected the incorrect duty position and the applicant's record failing to contain any NCOER to evaluate the duties he performed in the requested duty position, the Board concluded promotion board results would not have been impacted. In making this finding, the Board noted that the applicant had approximately four years to become educationally qualified to be promoted to SFC by attending SLC and failed to do so. Additionally, the applicant's possible non-selection to SFC was a lack of a complete the record NCOER to evaluate his requested position of Platoon Sergeant. Therefore, two possible significant contributing facts for the applicant's non-selection to SFC are actions the applicant failed to personally request and/or complete.
- Waive SLC requirement: DENY, based upon the regulatory requirement to complete SLC to hold the rank of SFC. The Board noted the previous guidance whereby a conditional promotion to SFC would be possible, but waiver of the requirement completely is inappropriate.
- Promotion to SFC/E-7 (DOR: 1 Nov 17): DENY, the Board found insufficient evidence that the applicant was selected for promotion to SFC during his period of military service.
- Back pay and allowances: DENY, based upon the findings and recommendations by the Board above.
- Change rank to SFC/E7 on retirement documents: DENY, based upon the findings and recommendations by the Board above.

BOARD VOTE:

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

//signed//

CHAIRPERSON

Signed by: USA

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 (AR) 600-8-19 (Enlisted Promotions and Reductions) provides the enlisted promotions and reductions function of the military personnel system.
 - a. Paragraph 1-13f., provides that for Soldiers promoted to PV2 through SGM entitled to a promotion effective date that exceeds 6-months prior to the date of the promotion instrument, the following will be entered in the special instructions: Because the effective date of the promotion exceeds this instrument by more than 6-months, the Defense Joint Military Pay System will automatically pay up to 12-months of back pay entitlements. Your next leave and earnings statement will reflect such payment. If you are due back pay in excess of 12-months, upon receipt of your leave and earnings statement that reflects back pay, provide your servicing finance and accounting office (FAO) with a copy of the instrument. Your servicing FAO will initiate procedures under the provisions of the DOD Financial Management Regulation 7000.14-R, Volume 7A, table 1-4, rule number 12, which will result in you receiving any additional back pay to which you are entitled.
 - b. Paragraph 1-28 (Noncommissioned Officer Education System Requirement for Promotion and Conditional promotion), provides that Soldiers (all components) must complete the following PME courses for promotion the SFC:
 - completion of Structured Self Development (SSD) 3 is an eligibility requirement for promotion consideration to SFC
 - graduation of the Senior Leaders Course (SLC) is a promotion requirement to SFC
 - there are no military education waivers to attain eligibility for promotion consideration or pin-on.
 - c. Paragraph 4-3c, provides that the selection board will recommend a specified number of best qualified Soldiers by Military Occupational Specialty (MOS) from the zones of consideration to meet the needs of the Army. The total number selected for each MOS is the projected number the Army needs to maintain its authorized-grade strength.
 - d. Paragraph 4-9a. provides that a Soldier must meet the announced eligibility requirements for board consideration. A Soldier will review and authenticate his ERB information in accordance with procedures outlined in board announcement messages. Soldiers will review their AMHRR online at <https://iperms.hrc.army.mil> prior to a board. Serving S1, MPD, and/or military HR offices will assist Soldiers by submitting authorized AMHRR documents in accordance with AR 600-8-104.

e. Paragraph 4-13a. provide that the DCS, G1 or designee may approve cases for referral to a STAB upon determining that a material error existed in a Soldier's AMHRR when the file was reviewed by a selection board. For this paragraph, AHRC is a designee. An administrative error is immaterial, if the Soldier, in exercising reasonable diligence, could have discovered and corrected the error. STABs are convened to consider records of those:

- otherwise, eligible Soldiers whose records were not reviewed by a centralized selection board
- Soldiers whose records were not properly constituted, due to material error, when reviewed by the regular board
- recommended Soldiers on whom derogatory information has developed that may warrant removal from a recommended list

f. Reconsideration normally will be granted when one or more of the following conditions existed on the Soldier's AMHRR and was reviewed by a selection board. Soldiers requesting reconsideration under paragraphs (2) through (6) normally will be granted reconsideration only for the most recent board held prior to the Soldier's request.

- adverse NCOER or Academic Evaluation Report reviewed by a board was subsequently declared invalid in whole or in part and was determined by the Army Review Boards Agency to constitute a material error
- adverse document belonging to another Soldier is filed on the AMHRR
- Uniform Code of Military Justice (UCMJ), Article 15, administered on or after 1 September 1979 that was designated for file in the local file only but was erroneously filed on the AMHRR reviewed by the board
- UCMJ, Article 15 punishment that was wholly set aside before 1 September 1979 and the set aside instrument was not filed on the AMHRR
- UCMJ, Article 15 punishment that was wholly set aside on or after 1 September 1979 was filed on the AMHRR when reviewed by the board
- court-martial orders were filed in the performance folder of the AMHRR when the findings were "not guilty"
- document was filed on the AMHRR that erroneously identified the non-select as AWOL or a deserter
- transcript awarding a degree was excluded from the records, if the degree was posted to either the AMHRR or ERB or was seen in hard copy by the board, a STAB is not authorized
- absence of an award of a Meritorious Service Medal or higher (initial award only), if the award was recorded on the AMHRR or ERB or was reviewed in hard copy by the board, a STAB is not authorized

- mandatory, error-free NCOER (that is, annual, extended annual, change of rater) received by AHRC in accordance with specific board military personnel message or regulatory requirements was not posted to the AMHRR
- individual was considered in an MOS or Career Progression MOS that is not the Soldier's normal career progression

g. The following items do not constitute material error and will not be reasons for reconsideration:

- omission of letters of appreciation, commendation, congratulations, or other similar commendatory correspondence
- documents that are not derogatory having been filed on the wrong AMHRR
- absence of documents (such as transcripts) written, prepared, or computed following the convening of a board
- incorrect data on the ERB
- failure to review promotion board files by the considered Soldier
- absence of the ERB
- absence of official photograph or the presence of an outdated photograph
- absence of an AER showing completion of an NCOES Course
- "complete the record" NCOER is an optional report and the absence of this report will not, under any circumstances, be a basis for reconsideration
- absence of an award for achievement or meritorious service lower than a Meritorious Service Medal
- omission of an AER dated 120-days prior to the board convene date

2. AR 635-8 (Separation Processing and Documents) provides the transition processing function of the military personnel system. It provides principles of support, standards of service, policies, tasks, rules, and steps governing required actions in the field to support processing personnel for separation and preparation of separation documents. Paragraph 5-6 (Rules for Completing the DD Form 214), provide that DD Form 214, item 4a./b. (Grade, Rate, or Rank) will contain the active duty grade or rank and pay grade at time of separation. Item 12i (Effective Date of Pay Grade) will contain the effective date of promotion or reduction to the current pay grade.

3. AR 15-185 (ABCMR) provides the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 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. In addition, 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//