

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 December 2024

DOCKET NUMBER: AR20240005950

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show his rank/grade as sergeant (SGT)/E-5 vice specialist four (SP4)/E-4.

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

- DD Form 149 (Application for Correction of Military Record)
- National Personnel Records Center (NPRC) Letter, 29 January 2024

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 effect, he was an SGT/E-5 at the time of his discharge and the Board can see his DD Form 214 does not reflect that. No where in his DA Form 201 File (Military Personnel Records Jacket U.S. Army) does it say he is not a SGT.

3. A review of the applicant's military service records show:

a. He enlisted in the Regular Army on 7 July 1981.

b. On 20 July 1984, Headquarters, U.S. Army Field Artillery Center and Fort Sill, published Orders Number 202-204, which promoted the applicant to the rank/grade of specialist five (SP5)/E-5, effective 1 August 1984, with a date of rank of 6 July 1984.

c. On 5 September 1984, he reenlisted for 4 years.

d. On 21 October 1986, DA Form 2627 (Record of Proceedings Under Article 15, Uniform Code of Military Justice (UCMJ)) shows the applicant accepted non-judicial punishment under the provisions of Article 15, UCMJ, for assaulting Private K\_ S\_, by grabbing him by the neck and forcing his head into a cement wall. His punishment

consisted of reduction to the rank/grade of SP4/E-4; forfeiture of \$400.00; and restriction and extra duty for 45 days. He did not appeal.

e. On 28 October 1986, the applicant was discharged from the Army. He completed 5 years, 3 months, and 22 days net active service. DD Form 214 shows in:

- Item 4a (Grade, Rate or Rank) – SP4
- Item 12h (Effective Date of Pay Grade) – 21 October 1986
- Item 24 (Character of Service) – Under Honorable Conditions
- Item 25 (Separation Authority) – Chapter 9, Army Regulation 635-200 (Personnel Separations – Enlisted Personnel)
- Item 28 (Narrative Reason for Separation) – "Alcohol Abuse – Rehabilitation Failure"

4. The applicant provides NPRC Letter dated 29 January 2024, which shows he was referred to the Army Review Boards Agency to address his request.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. The evidence shows the applicant served on active duty from 7 July 1981 to 28 October 1986. He was promoted to SP5/E-5 on 1 August 1984. However, he received NJP/Article 15 on 21 October 1986, for assaulting a private by grabbing him by the neck and forcing his head into a cement wall. His punishment consisted of reduction to the rank/grade of SP4/E-4. He held the rank/grade of SP4/E-4 at the time of his separation from active duty. Since the DD Form 214 reflects the active duty rank/grade held by the Soldier at the time of separation, the Board determined the rank/grade shown on his DD Form 214 is not in error or unjust.,

b. Continuous Honorable Service: Grant. The Board noted that the applicant's service from first date of enlistment to the date before his last reenlistment was honorable. For enlisted Soldiers with more than one enlistment period during the time covered by this DD Form 214, in addition to listing immediate reenlistment(s), an entry is required for continuous honorable service from first day of service for which DD Form 214 was not issued until date before commencement of current enlistment.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:	:	:	GRANT FULL RELIEF
■	■	■	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending his DD Form 214 for the period ending on 29 October 1986 to show in the Remarks Block:

- Continuous Honorable Service from 1981-07-07 to 1984-09-04
- Member Completed First Full Term of Service

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to the rank of SGT/E-5.

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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 635-5 (Separation Documents) prescribes the separation documents which are prepared for individuals upon retirement, discharge, or release from active military service or control of the Army. It establishes standardized policy for preparing and distributing DD Form 214. Table 2-1, DD Form 214 Preparation Instructions state for item 4a and b to enter active duty grade of rank and pay grade at time of separation.

//NOTHING FOLLOWS//