

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 February 2025

DOCKET NUMBER: AR20240005999

APPLICANT REQUESTS: In effect –

- Correction of his records to show he enlisted in the rank/grade of private first class (PFC)/E-3; and
- Retroactive pay and allowances
- A personal Board appearance via video/telephone

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

- DD Form 149 (Application for Correction of Military Record)
- Miami Dade College - Unofficial Transcript, 2 January 2024
- Travis Career Center document and certificate, 20 December 2013
- Travis Career Center document and certificate, 16 July 2014
- Central Florida Aerospace Academy Certificates of Completion, 16 July 2014
- South Florida Academy of Air Certificate of Completion, 22 August 2015
- Scribbles Software Certified + Secured Trusted transcript, 12 January 2023

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 he is requesting his rank be upgraded to PFC/E-3 as well as backpay for the difference in pay during his enlistment. He gave his college transcripts to his recruiter because at the time he mentioned he could be a private (PV2)/E-2 when starting basic training. He has been referred to three different departments trying to request these changes since 2022.
3. A review of the applicant's official records show:
 - a. On 19 December 2016 –

(1) DD Form 1966 (Record of Military Processing – Armed Forces of the United States) reflects in:

- Item 22 (Education) –
 - August 2010 to June 2011, the applicant attended Miami Dade College Kendall Campus; he did not graduate
 - August 2013 to June 2014, he attended and graduated from Travis Career Center "Also Known As Travis Technical College"
- Section VI (Remarks) – his enlistment grade was E-1 in accordance with (IAW) Army Regulation (AR) 601-210 (Regular Army and Reserve Components Enlistment Program), paragraph 2-18. Delayed Entry Program (DEP) and "ACC" [Active Component] Pay Grade Authority: Effective 1 April 2013, IAW AR 601-210, chapter 2-18a(1), no qualification for advancement E-1

(2) DD Form 4 (Enlistment/Reenlistment Document – Armed Forces of the United States) shows he enlisted in the U.S. Army Reserve (USAR) DEP, in the rank/grade of private (PVT)/E-1.

b. On 20 December 2016, the Military Entrance Processing Station Tampa, FL, published Orders Number 7004014, which assigned the applicant to Fort Benning, GA, with a report date of 4 January 2017.

c. On 4 January 2017, DD Form 4, page 3 shows the applicant enlisted in the Regular Army (RA) in pay grade E-1.

d. DA Forms 4856 (Developmental Counseling Form) during the period of 20 January through 10 February 2017 shows the applicant was counseled for:

- having a cellphone in his locker
- not abiding by safety rules and procedures
- disrespecting a senior noncommissioned officer
- malingering and not following a lawful order from a Drill Sergeant
- refusing to train on multiple occasions
- being recommended for Uniform Code of Military Justice (UCMJ) actions and disobeying a direct order

e. On 16 February 2017 –

(1) DA Form 2627 (Record of Proceedings Under Article 15, UCMJ) shows the applicant accepted Non-Judicial Punishment for failing to obey a lawful order issued by

Captain R_, to go to physical training. His punishment consisted of forfeiture of pay and extra duty. He did not appeal.

(2) He was also counseled for being recommended for separation.

f. On 21 February 2017 –

(1) The applicant's immediate commander notified him that he was initiating action to separate him for entry level performance and conduct, under the provisions of AR 635-200 (Active Duty Enlisted Administrative Separations), Chapter 11. The reasons were based on his multiple acts of misconduct and indiscipline. The commander recommended his service be characterized as "uncharacterized" and informed the applicant of his rights.

(2) The applicant acknowledged receipt of the separation action and elected not to submit statements on his own behalf and waived consulting counsel and representation by military/civilian counsel.

(3) The immediate commander formally recommended the applicant for discharge.

g. On 22 February 2017, the separation authority directed the applicant be separated from the Army prior to the expiration of current term of service and his service be characterized as "uncharacterized".

h. On 28 February 2017, the applicant was discharged from active duty. He completed 1 month and 27 days net active service. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows in:

- item 4a (Grade, Rate or Rank) – PV1
- item 4b (Pay Grade) – E-1
- item 12i (Effective Date of Pay Grade) – 4 January 2017
- item 24 (Character of Service) – Uncharacterized
- item 28 (Narrative Reason for Separation) – Entry Level Performance and Conduct

4. In support of his petition to the Board, the applicant provides:

a. Miami Dade College - Unofficial Transcript, dated 2 January 2024, which shows he earned a total of 22 semester hours.

b. Travis Career Center document and certificate dated 20 December 2013, showing he completed the Aviation General Maintenance Technician Helper course.

c. Travis Career Center document and certificate dated 16 July 2014, showing he completed the Aviation Maintenance Technician with Federal Aviation Administration Rating 1 and 2 course.

d. Central Florida Aerospace Academy Certificates of Completion dated 16 July 2014, showing he completed the Aviation General Maintenance and Aircraft Airframe Mechanics courses.

e. South Florida Academy of Air Certificate of Completion dated 22 August 2015, showing he was certified as a Technician Type I.

f. Scribbles Software Certified + Secured Trusted transcript dated 12 January 2023.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation showing the applicant's military service ending in 2017 and the Miami Dade College transcripts were submitted in 2024, well after the publishing of the DD Form 214, the Board concluded there was insufficient evidence of an error or injustice warranting a correction to the applicant's rank.

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:

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//

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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. 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 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. In pertinent part, the regulation states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. It will decide cases based on the evidence of record and it is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. Paragraph 2-11 states that 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.
3. AR 601-210 (Regular Army and Reserve Components Enlistment Program) prescribes eligibility criteria governing the enlistment of persons, with or without prior service (PS), into the RA, the USAR, and the Army National Guard (ARNG). It provides policies and procedures to process applicants for enlistment in the RA DEP and on delayed status, and the USAR Delayed Training Program (DTP). In pertinent part:
 - a. Paragraph 2-17 (Pay grade and date of rank) states persons enlisting in the RA, USAR, or ARNG without PS will be enlisted in pay grade private E-1. Exceptions are shown in paragraph 2-18 or when the applicant qualifies to enter in a higher entry pay

grade as outlined under the Army Civilian Acquired Skills Program. Date of rank for persons without PS will be as follows: (1) RA — date of enlistment on Active Duty. (2) USAR — date of enlistment. (3) ARNG — date of enlistment.

b. Paragraph 2-17c states, enlistment pay grade determined using 2-18 does not exempt applicant from basic training requirement.

c. Paragraph 2-17d states, authority for enlistment grade must be entered in the remarks section of DD Form 1966, to include a statement that the documents used to promote the Soldier have been verified (for example, pay grade E-3 authorized per paragraph 2-18c, by guidance counselor name and rank).

d. Paragraph 2-18 (Enlistment pay grades for personnel without prior service) applies to DEP, DTP, or ARNG applicants. Paragraph 2-18a(1) states, an applicant who has no qualifications for advancement to pay grade higher than E-1 may enlist at any time.

e. Paragraph 2-18a also states that an applicant who —

(1) Has successfully completed 24 or more classroom semester hours (36 or more quarter hours) at an accredited degree granting college or university listed in the AIPE or NACES (foreign transcripts must be evaluated according to paragraphs 2-7f and 2-20), may enlist at any time at pay grade E-2.

(2) Has successfully completed 48 or more classroom semester hours (72 or more quarter hours) (without a 4-year degree) at an accredited degree granting college or university listed in the AIPE (foreign transcripts must be evaluated according to paras 2-7f and 2-20), may enlist at any time at pay grade E-3. Applicants with an associate degree will be enlisted at pay grade E-3 without regard to the number of semester or quarter hours completed.

(3) Has successfully completed 2 or more academic years of a postsecondary vocational-technical school and has received a certificate of training attesting to successful completion of the course, may enlist at any time at pay grade E-3. The school must be listed in the AIPE (see paragraph 2-20).

f. Paragraph 2-18a(14) states, an applicant who lacks documentation required for advanced promotion under this paragraph at time of enlistment may submit supporting documents to the unit personnel officer at the initial entry training installation or at the first unit of assignment within 6 months of enlistment.

g. Paragraph 2-19 (Verification requirements for enlistment in higher grade) states, applicant must provide the documentation reflected in paragraphs 2-19a through 2-19d to support enlistment in higher pay grade. Guidance counselors will verify required

documents to justify higher pay grade from one of the documents listed below. After verifying required documents for advanced promotion, guidance counselor must sign a DA Form 4187 (Personnel Action) that outlines the promotion authority and the pay grade authorized prior to shipping to initial active duty for training (IADT). This applies to those USAR or ARNG members who met an advanced promotion criteria after the initial date of enlistment and who are awaiting shipping to IADT. Additionally, after arrival at the reception battalion if an error in entry grade is identified following review of a new Soldier's enlistment contract, the human resources specialists at all reception battalions are authorized to generate and/or authenticate a grade change in the applicable human resources system to provide the correct entry grade.

4. Title 31 USC, section 3702, also known as the barring act, prohibits the payment of a claim against the Government unless the claim has been received by the Comptroller General within 6 years after the claim accrues. Among the important public policy considerations behind statutes of limitations, including the 6-year limitation for filing claims contained in this section of Title 31, USC, is relieving the government of the need to retain, access, and review old records for the purpose of settling stale claims, which are often difficult to prove or disprove.

//NOTHING FOLLOWS//