

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 February 2025

DOCKET NUMBER: AR20240006228

APPLICANT REQUESTS:

- amendment of the deceased former service member's (SM) DD Form 214 (Report of Separation from the Armed Forces of the United States) to show his rank as staff sergeant (SSgt) vice sergeant (Sgt)
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, for the period ending 5 September 1952
- Letter from the National Personnel Records Center (NPRC)
- Congressional Correspondence
- Death Certificate of SM
- Birth Certificate of Applicant (Son of SM)

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 SM served on active duty from 18 July 1949 to 5 September 1952; including foreign service in Korea from 9 July 1950 to 13 May 1951.
3. His DA Form 20 (Soldier's Qualification Card) shows his grade of SGT from 21 December 1951.
4. His DD Form 214 shows his rank as Sgt with a date of rank of 21 December 1951.
5. His record is void of promotions orders or other documentation that show his rank as SSgt during his period of service.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the SM's military record, the Board found that relief was not warranted. The Board carefully considered the SM'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 the SM's available military records, the Board noted the SM served honorably on active duty from 18 July 1949 to 5 September 1952, including foreign service in Korea from 9 July 1950 to 13 May 1951. Evidence in the records, including the DA Form 20 (Soldier's Qualification Card), confirm the SM held the rank of sergeant as of 21 December 1951. The applicant's DD Form 214 also reflects this rank and date of rank. Furthermore, the Board found the SM's military record absent of promotion orders or official documentation indicating advancement to staff sergeant during his period of service. In the absence of substantiating evidence, the Board determined there is insufficient evidence to amend the SM's DD Form 214. Therefore, relief is denied.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

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.

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.

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. War Department Technical Manual 12-236 (Preparation of Separation Forms) provides that the appropriate separation form will be prepared for all enlisted personnel separated from the service by reason of discharge, retirement, or release from active duty or transfer to a Reserve Component. This manual states that item 3 shows the grade held by the enlisted member at the time of separation and item 38 shows the highest grade held by the enlisted member during the current period of active duty.

//NOTHING FOLLOWS//