

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 March 2025

DOCKET NUMBER: AR20240007325

APPLICANT REQUESTS:

- correction of DD Form 214 (Certificate of Release or Discharge from Active Duty) to reflect staff sergeant (SSG)/E-6 rather than sergeant (SGT)/E-5
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (DVA) letters, 25 April 2024
- Orders Number 083-056, 23 March 2017
- DD Form 214, 2 May 2018
- Orders Number 115-0003, 25 April 2018
- Memorandum – Subject: Separation Under Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations), Chapter 13-2e, Unsatisfactory Performance, Army Physical Fitness Test (APFT) Failure, 19 April 2018
- Memorandum – Subject: Assumption of Command, 17 April 2018
- Memorandum – Subject: Separation Under AR 635-200, Chapter 13-2e, Unsatisfactory Performance, APFT Failure, 10 April 2018
- Memorandum – Subject: Commanders Report – Proposed Separation Under AR 635-200, Chapter 13-2e, Unsatisfactory Performance, APFT Failure, 4 April 2018
- Memorandum – Subject: Separation Under AR 635-200, Chapter 13-2e, Unsatisfactory Performance, APFT Failure, 3 April 2018
- Memorandum – Subject: Acknowledgement of Receipt of Separation Notice, Chapter 13-2e, Unsatisfactory Performance, APFT Failure, 3 April 2018
- Memorandum – Subject: Election of Rights Regarding Separation Under AR 635-200, Chapter 13-2e, Unsatisfactory Performance, APFT Failure, 4 April 2018
- DA Forms 4856 (Developmental Counseling)
- DA Form 705 (APFT Scorecard)
- Memorandum – Subject: APFT for Record, 19 March 2018
- DA Form 705
- Memorandum – Subject: APFT for Record, 14 February 2018
- Enlisted Record Brief

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 SSG in 2017 and would like his DD Form 214 corrected to reflect that rank as well as his Veterans Identification Card. He contests that he was proud to be promoted to SSG and worked hard to achieve that rank.

3. A review of the applicant's available service records reflects the following:

a. On 22 October 2008, the applicant enlisted in the Regular Army with duty as a 92G (Culinary Specialist).

b. On 1 April 2017, the applicant was promoted to the rank/grade of SSG/E-6.

c. On 15 September 2017, the applicant's commander exercised Non-Judicial Punishment in accordance with Article 15, Uniformed Code of Military Justice (UCMJ) in that on or about 22 June 2017, the applicant with the intent to deceive made a false statement regarding his performance on the APFT in violation of Article 107, UCMJ.

d. On or about 2 October 2017, the applicant's commander imposed the following punishment after the applicant's appeal: reduction to SGT/E-5.

e. On 3 April 2018, the applicant's commander-initiated separation proceedings for Unsatisfactory Performance – APFT failure, in accordance with AR 635-200, Chapter 13-2e. At that time, the applicant had previously failed two record APFT between 26 June 2017 – 20 September 2017.

f. On 4 April 2018, the applicant acknowledged receipt of the commander's intent to separate him and elected to waive his rights to be considered by an administrative separation board after consulting with counsel.

g. On 10 April 2018, the applicant's intermediate commander reviewed his separation packet and recommended that he be separated prior to reaching his current Expiration Term of Service (ETS).

h. On 19 April 2018, the 2nd Armored Brigade Combat Team reviewed the applicant's separation packet and directed that he be honorably separated prior to reaching his ETS date.

i. On 25 April 2018, Headquarters, Third Infantry Division and Fort Stewart issued Orders Number 115-0003 reassigning the applicant to the U.S. Army transition point pending separation processing.

j. On 2 May 2018, the applicant was honorably discharged at the rank of SGT, in accordance with AR 635-200, paragraph 13-2e (Physical Standards).

k. The applicant's records are void of any documentation pertaining to a Physical Evaluation Board or referral to the Integrated Disability Evaluation System (IDES).

4. The applicant provides the following a:

a. DVA letters dated 25 April 2024, reflective of a summary of the applicant's disability compensation rating and benefits.

b. Orders Number 083-056 dated 23 March 2017, reflective of the applicant's promotion to SSG, effective 1 April 2017.

c. Memorandum – Subject: Assumption of Command, dated 17 April 2018, reflective of Lieutenant Colonel (LTC) R_ W_ assuming command of the 2nd Brigade Combat Team, effective 17 April 2018 – 20 April 2018.

d. DA Forms 4856, reflective of the applicant being counseled by his First Sergeant for failing the APFT. The applicant was further notified that a flagging action was being imposed on his records.

e. DA Form 705, reflective of the applicant's failure of the APFT on 20 September 2017.

f. Memorandum – Subject: APFT for Record, dated 19 March 2018, reflective of documentation concerning the applicant completing an APFT on 20 September 2017.

g. DA Form 705, reflective of the applicant's failure of the APFT on 26 June 2017.

h. Memorandum – Subject: APFT for Record, dated 14 February 2018, reflective of documentation concerning the applicant's failure of the 6 June 2017 APFT. On the DA Form 705, the applicant's grader mistakenly annotated the test as "diagnostic" when in fact the applicant had taken the APFT for "record."

i. Enlisted Record Brief, reflective of the applicant's pertinent personnel information to include dates of rank, authorized awards, and assignment history.

5. On 3 February 2025, the U.S. Army Human Resources Command, Chief, Enlisted Promotions Branch provided an advisory opinion recommending denial of the applicant's request noting that he was not eligible for promotion to SSG. The applicant was separated due to his failure to meet physical standards and not due to a physical disability. AR 600-8-19, Paragraph 1-20e. provides the requirement for promotion of Soldiers in the Disability Evaluation System. Per the provisions of Title 10, USC, section 1372, Soldiers on a promotion list who are retired for physical disability or who are placed on the Temporary Disability List at the time of retirement for disability will be retired for disability at the promotion list grade.

6. On 18 February 2025, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments. As of 5 March 2025, the applicant had not responded.

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 showing the applicant was properly reduced in rank from SSG to SGT during his period of military service as part of Article 15 proceedings and a lack of evidence showing he later regained the rank of SSG prior to his separation, 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 600-8-19 (Enlisted Promotions and Reductions) states in:
 - a. Paragraph 1-21 (Promotion of Soldiers in the Disability Evaluation System) provides that Soldiers in the Disability Evaluation System (DES) process who are pending a medical fitness determination (referral to a medical evaluation board under AR 40-400, or physical evaluation board under AR 635-40) remain otherwise eligible for promotion consideration, selection, and pin-on. While in the DES, Soldiers will not be required to maintain their APFT or weapons qualification for the purpose of promotion eligibility or pin-on. If the Soldier does not have a permanent profile that prevents them from taking an APFT and does not have an APFT, they must be removed from the promotion recommended list. Per the provisions of Title 10, USC, section 1372, Soldiers on a promotion list who are retired for physical disability (10 USC 1201 or 1204) or who are placed on the temporary disability retired list (TDRL) (10 USC 1202 or 1205) at the time of retirement for disability will be retired for disability at the promotion list grade. The Soldier will be promoted effective the day before placement on the retired list or TDRL regardless of cutoff scores, sequence numbers, or position availability. In all cases, the Soldier must otherwise be eligible for promotion
 - b. Paragraph 3-9 (Eligibility Criteria for Recommendation and Promotion) provides the eligibility criteria for recommendation and promotion to SSG are as follows:

- Soldier must be qualified in the recommended MOS
- High school diploma or General Education Development
- Must have completed Structured Self Development 2 prior to board appearance
- 47 months time in service - 6 months time in grade (Secondary zone); 71 months time in service - 9 months time in grade (Primary zone)
- Possess a current passing record APFT score
- In compliance with Army height/weight standards
- Not flagged

3. AR 635-200 (Active Duty Enlisted Administrative Separations), Paragraph 13-2e. provides that initiation of separation proceedings is required for Soldiers without medical limitations who have two consecutive failures of the APFT. Before initiating separation action against a Soldier, commanders will ensure that the Soldier has received adequate counseling and rehabilitation. Because military service is a calling different from any civilian occupation, a Soldier should not be separated when unsatisfactory performance is the sole reason for separation unless there have been efforts at rehabilitation.

4. AR 635-8 (Separation Processing and Documents) states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. Source documents consist of servicemember's record brief, separation approval documents, separation order, and any other document authorized for filing in the Army Military Human Resources Record. Block 4 (Grade, Rate, or Rank). Verify the active duty grade or rank and pay grade are accurate at time of separation.

5. AR 15-185 (ABCMR) prescribes 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 that applicant's do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//