

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 April 2025

DOCKET NUMBER: AR20240007353

APPLICANT REQUESTS: reconsideration of his previous request for promotion to the rank/grade of sergeant first class (SFC)/E-7.

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

- DD Form 149 (Application for Correction of Military Record)
- Privacy Release Form – authorizing his State representative to access any relevant information pertaining to his requested relief; applicant also notes that he has 5 additional years of service that he is not receiving credit for
- Email communication – reflective of the applicant seeking the assistance of his State representative with his request for reconsideration to be promoted to SFC; privacy release document provided
- DA Form 2166-9-2 (Noncommissioned Officer Evaluation Report SSG – 1SG/MSG), 21 March 2020 – duty performance assessment as evaluated by members of his immediate leadership from 23 March 2019 – 21 March 2020; staff sergeant date of rank (1 February 2015); senior rater recommended that he be promoted as soon as eligible
- Memorandum – Subject: Award of the Army Reserve Component Achievement Medal, 13 April 2020 – in recognition of his 3 years of continuous service in the U.S. Army Reserve (USAR) from June 2016 – June 2019; third award

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20220001679 on 16 December 2022.
2. The applicant states in pertinent part that:

- He is eligible for promotion the SFC based on meeting the time-in-grade and time-in-service requirements
- He was diagnosed with bone cancer in 2014
- December 2020 he was advised that he would not be retained due to disqualifying medical conditions

- He was discharged during the COVID-19 restrictions; precluded from receiving transition assistance and guidance afforded to other service members discharged under similar circumstances
- He expected to receive disability retirement pay upon separation

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

- after serving on active duty from 15 October 1986 – 12 October 1989, he was transferred into the USAR and further assigned to a Troop Program Unit: DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects 2 years 11 months 28 days of active service this period
- On 4 February 2015 (Orders Number 15-035-00019) – promoted the applicant to the rank/grade of staff sergeant (SSG), effective 1 February 2015
- On 7 November 2020 – the applicant was issued a Notification of Eligibility for Retired Pay at Age 60 (15-Year letter); eligibility determined based on not being eligible for retention in the USAR due to medical disqualification; eligible to apply for retired pay benefits upon reaching age 60
- On 13 November 2020 (Orders Number 20-318-0029) reassigned the applicant to the Retired Reserve, effective 15 December 2020, at the rank of SSG; applicant authorized early retirement under Title 10, USC Section 12731B

4. A review of the applicant's DA Form 5016 (Chronological Statement of Retirement Points) reflects qualifying service completed between 15 October 1986 and 16 December 2020. However, during this period, the applicant had several Retirement Year Endings where he failed to obtain the minimum qualifying service (50 points per year) to receive credit for a qualifying year of service. The applicant also had a break in service from August 2000 – June 2010.

5. On 16 December 2022, Docket Number AR20220001679 the Board considered and recommended denial of the applicant's request for disability retirement, promotion to SFC and the adding of 5 additional years of creditable service. However, on 8 May 2023, the Deputy Assistant Secretary of the Army Review Boards reviewed the evidence and determined that there was sufficient evidence to grant partial relief. Therefore, under the authority of Title 10, United States Code, section 1552, he directed that the applicant be entered into the Disability Evaluation System (DES) and a Medical Evaluation Board (MEB) convened to determine whether the applicant's condition(s), to include posttraumatic stress disorder (PTSD), met medical retention standards at the time-of-service separation. Should a determination be made that the applicant should have been separated under the DES, these proceedings would serve as the authority to void his administrative separation and to issue him the appropriate separation retroactive to his original separation date, with entitlement to all back pay and allowances and/or retired pay, less any entitlements already received. Regarding his request for promotion to SFC, the Board determined that there was insufficient evidence

to show that he was selected or in a promotable status at the time of his medical separation and therefore denied this portion of his request. Finally, the Board determined that there was a lack of any proper justification or error related documentation presented to support his request for additional creditable service and therefore recommended denial of this portion of his request.

5. On 2 October 2023, the applicant's ABCMR records were referred to the Office of the Surgeon General to determine if he should have been retired or discharged by reason of physical disability through the DES process. After a thorough review of his records, it was determined that an MEB was warranted.

6. A review of the applicant's available service records are void of a DA Form 199 (Physical Evaluation Board Proceedings) or orders from the U.S. Army Physical Disability Agency.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant'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 available military records, the Board determined the applicant's record is absent evidence that shows he was selected for promotion to SFC by a promotion selection board. Official promotion and selection boards select members for promotion based upon their performance and potential; the Board does not. The Board agreed the request for relief has no merit as the available evidence does not support the applicant was ever selected for promotion to the rank of SFC/E-7. Therefore, the found reversal of the previous Board determination is without merit and relief is denied.

#### BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:            :            :            GRANT FULL RELIEF

:            :            :            GRANT PARTIAL RELIEF

:            :            :            GRANT FORMAL HEARING

██████████ DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board found 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 to amend the decision of the ABCMR set forth in Docket Number AR20220001679 on 16 December 2022.

[REDACTED]

[REDACTED]

[REDACTED]

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) prescribes policies and procedures governing promotions and reductions of Army enlisted personnel. 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.
  - a. Chapter 5 (Centralized promotions (SFC) for United States Army Reserve Soldiers Assigned to Troop Program Units, Army Reserve Elements, or Multi-Component Commands or Units) provides policy for the promotion of USAR Soldiers to the rank of SFC. To be eligible for promotion to SFC, service members must have 36 months' time in grade as a SSG and 6 years' time in service. Selection of enlisted Soldiers for promotion to SFC through SGM will be made by selection boards. Because promotions are based on requirements within a geographical area the senior NCO promotion system is more effective where consolidated selection boards and recommended lists are established. All SSGs through MSGs and/or 1SGs who meet the basic eligibility requirements will be considered for promotion. The promotion selection board will select the best qualified Soldiers for placement on the Permanent Promotion Recommended List (PPRL). Soldiers who are not fully qualified for promotion pin-on will

remain on the PPRL but will not be selected for promotion pin-on until after they are fully qualified, and a promotion requirement exists.

- b. Per the provisions of 10 USC 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 in accordance with paragraph 1–11.
- c. Soldiers pending medical retention decision or medical separation will not be removed from a promotion list until promoted or until after being determined fit for duty and afforded 180 days to retain promotion eligibility, provided they are otherwise qualified and eligible with this regulation.

2. AR 15-185 (ABCMR) 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//