

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 March 2025

DOCKET NUMBER: AR20240007883

APPLICANT REQUESTS: in effect, correction of her records to show she was assigned to the Retired Reserve in the rank/grade of sergeant major (SGM)/E-9.

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

- DD Form 149 (Application for Correction of Military Record)
- C\_ W\_ statement
- Congressional correspondence
- Albuquerque Police Report, 20 February 2018
- DA Form 4856 (Developmental Counseling Form), Reverse page/page 2, 31 July 2019
- Headquarters and Headquarters Company (HHC), 653rd Regional Support Group (RSG) Memorandum – Subject: Acknowledgment, Election and Waiver of Rights in Separation Proceedings Under [Army Regulation (AR)] 135-178, Chapter 12, [Applicant], 653rd RSG-HHD, 20 June 2019
- 653rd RSG Memorandum – Subject: Reconsideration of Grade at the Time of Retirement, 18 April 2020
- Acknowledgement of Notification of Medical Unfitness for Retention, 14 August 2020
- Orders Number 20-259-00019, 15 September 2020
- Medical documents

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:

a. She is requesting to have her rank of SGM reestablished. She belonged to a U.S. Army Reserve (USAR) unit in Mesa, AZ from 2015 – 2020 before being in a

motorcycle accident in 2017. She was forced to retire as a master sergeant (MSG) with a general discharge.

b. The USAR unit demoted her to MSG/E-8 because of her attendance at battle assemblies however the unit was made fully aware of the motorcycle accident she was in on 18 November 2017. At that time, they were also informed that her recovery could take up to two years. She was scheduled to attend the SGM Academy in April 2018, and the unit canceled her seat the day she was to start.

c. She held the rank of SGM since November of 2014 and the motorcycle accident was no fault of her own. She provided the unit with all the documentation from the trauma and ortho surgeon and was in good standing with the unit at that time. She served honorably until the accident and did attempt to go back in October 2018 against medical advice. She has medical records, and all other pertinent documents related to this attached to this request.

d. The delay in her request for correction is due to mental health challenges she faced after her forced retirement and loss of rank. She also attempted to challenge this loss of rank in 2020 and was denied. After going through the physical trauma of the motorcycle accident, the loss of her fiancé in that accident, the denial of the rank she had worked diligently to obtain and her retirement from the military, she dealt with deep depression causing her to delay the submission of this request.

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

a. Having prior service in the USAR and Army National Guard, she enlisted in the USAR on 8 March 1996. She served continuously through multiple reenlistments.

b. On 1 September 2005, Headquarters, 90th Regional Readiness Command published Orders Number 05-244-00801, which promoted the applicant to the rank/grade of MSG/E-8, effective on with a Date of Rank (DOR) of 1 September 2005.

c. On 7 June 2007, the U.S. Army Human Resources Command (HRC) issued the applicant her Notification of Eligibility for Retired Pay at Age 60 (Twenty Year Letter).

d. On 29 October 2014, Headquarters, 63d Regional Support Command published Orders Number 14-302-00001, which promoted the applicant to the rank/grade of SGM/E-9, effective on with a DOR of 1 November 2014. In pertinent part, the additional instructions state:

(1) The promotion was awarded with the condition the applicant must have been enrolled in, and successfully completed, the U.S. Army Sergeants Major Course (SMC) within 36 months from the effective date of the order under the SMC corresponding

studies, or within 18 months from the effective date of the order under the SMC resident course.

(2) The applicant understood and agreed that if she failed to meet these conditions, or was subsequently denied enrollment, or became an academic failure, or did not meet graduation requirements, or was declared a "No-Show", the applicant was subject to reduction under Army Regulation (AR) 600-8-19 (Enlisted Promotions and Reductions), paragraph 1-27, to the grade and rank held prior to the promotion. The applicant further understood that if reduced, service performed in the higher grade would not be considered for retirement, date of rank, or any other determinations dependent on the higher grade.

e. On 26 March 2018, HRC published Orders Number T-03-807890, which ordered the applicant to active duty for training to attend Phase 2 of the SGM Academy, Fort Bliss, TX, with a report date of 27 April 2018. The orders were revoked on 6 September 2018.

f. DA Form 1059 (Service School Academic Evaluation Report) dated 31 October 2018, shows the applicant received a referred report and "failed to achieve course standards". She was dismissed from the SGM Course for lack of progress. The dismissal was based on failure to maintain satisfactory progress while enrolled in Phase II. No determination was made regarding whether the course failure reflected the applicant's character, behavior, or lack of aptitude in certain areas. The applicant refused to sign the form.

g. On 3 December 2019, Headquarters, 63d Readiness Division (USAR) published Orders Number 19-337-00030, which reduced the applicant to the rank of MSG, effective 1 August 2018, with a DOR of 1 September 2005. The authority was listed as AR 600-8-19, paragraph 10-16, 10-17, and 10-18 (a,c,d,e,g,h).

h. On 1 April 2020, the applicant acknowledged receipt of the Notification of Separation Proceedings Under AR 135-178, Chapter 12.

(1) She indicated that she had exercised her rights and had consulted with counsel in preparation of her response to the notification memorandum. She had been advised by her consulting counsel of the basis for the contemplated action to separate her for Unsatisfactory Participation under AR 135-178, Chapter 12 [13], and its effects; of the rights available to her; and the effect of any action taken by her. The counsel confirmed this by entering and signing the statement at the end of the memorandum.

(2) She waived her right to obtain copies of documents and she indicated that she understood that if she had over 20 qualifying years for retired pay and being separated for unsatisfactory participation, she would have the option of transferring to

the Retired Reserves rather than process through an administrative board. The memorandum shows an "honorable" discharge/character of service was marked.

i. On 15 September 2020, Headquarters, 63d Readiness Division (USAR) published Orders Number 20-259-00019, which assigned the applicant to the Retired Reserve, effective 22 September 2020.

j. DA Form 5016 (Chronological Statement of Retirement Points) dated 3 March 2025, shows the applicant did not have qualifying years for retirement during the period of 30 December 2017 to 23 September 2020.

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

a. A statement from C\_ W\_ , Paws and Stripes, undated, written on behalf of the applicant for reconsideration of her rank at the time of retirement. In pertinent part, he states, upon review of the applicant's record, the applicant believes there may have been errors or oversights in the determination of her final rank at the time of retirement. They respectfully request the Army Review Boards Agency consider the applicant's case with thoroughness and fairness, considering all pertinent documentation and evidence provided.

b. Congressional correspondence acknowledging the applicant's request for assistance.

c. Albuquerque Police Report dated 20 February 2018, which documents and outlines the fatal crash which lists the applicant as a passenger and victim.

d. DA Form 4856 reverse page dated 31 July 2019, which indicates the applicant was counseled regarding her retirement packet.

e. 653rd RSG Memorandum - Subject: Reconsideration of Grade at the Time of Retirement dated 18 April 2020, wherein, the applicant requested reconsideration of her rank for retirement purpose by the Army Grade Determination Review Board and Grade Determinations. She submitted her request to HRC.

f. Acknowledgement of Notification of Medical Unfitness for Retention dated 14 August 2020, wherein, she acknowledged receipt of the notification of medical unfitness for retention and available options. She selected Option A, indicating she had 20 years of qualifying years (good years) and requested reassignment to the Retired Reserve per AR 140-10, Chapter 6.

g. Medical documentation showing her examinations, injuries, diagnosis, prognosis, treatments, profiles, and appointments.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation showing the applicant held the rank of SGM for three years prior to a motorcycle accident which prevented her from completing the SMC and leading to her separation, the Board concluded there was an injustice present warranting changing the applicant's retirement rank to SGM.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:XXX	:XXX	:XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected by:

- voiding HQ, 63d Readiness Division (USAR) Orders 19-337-00030, dated 3 December 2019
- amending HQ, 63d Readiness Division (USAR) Orders 20-259-00019, dated 15 September 2020, to show the applicant's rank as SGM

//SIGNED//  
 X  
 \_\_\_\_\_  
 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, it states that 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. The ABCMR will decide cases based on the evidence of record. It is not an investigative agency.

3. AR 600-8-19 (Enlisted Promotions and Reductions) prescribes the enlisted promotions and reductions function of the military personnel system. In pertinent part:

a. Paragraph 1-27b (Conditional promotion to SGM) states (1) Soldiers who fail to successfully complete, fail to remain eligible to be scheduled for or attend, who are denied enrollment in, or who do not attend their scheduled Noncommissioned Officer Education System (NCOES) class (through fault of the Soldier) will be administratively reduced or removed from the promotion list. The effective date of administrative reduction is the date of the action that caused the Soldier to be ineligible to retain the promotion. The DOR will be the previous DOR held at the reduced grade. (2) Conditionally promoted SGMs who have been reduced or removed from the promotion list as a result of failure to meet the NCOES requirement are ineligible for future promotion consideration.

b. Paragraph 10-16c (Reductions for failure to complete training) states, Soldiers conditionally promoted in accordance with paragraph 1-27, of this regulation, are administratively reduced to the grade previously held upon failure to complete the training requirement established in that provision.

c. Paragraph 10-17 (Reduction for unsatisfactory participation) states, reductions under this paragraph are discretionary and wholly apart from discharge proceedings under AR 135-178, Chapter 13. A Soldier may be reduced one grade for unsatisfactory participation. The reduction authority for the grade concerned (see paragraph 10-2, above), or higher commander (CDR) in the chain of command, may reduce the Soldier. Reduction action is discretionary. A CDR may initiate reduction proceedings by presenting documentary evidence (AR 135-91) of unsatisfactory participation to the appropriate reduction authority. The commander reducing the Soldier will inform the

Soldier in person or by certified mail of the action contemplated and reasons. The Soldier will acknowledge receipt of the memorandum, in writing, and may submit any pertinent matters in rebuttal. Sergeant (SGT) through SGM may appear before a reduction board. If Soldier declines appearance, it will be in writing and will be considered as acceptance of the reduction action. A reduction board, when required, will be convened within 30 days after the Soldier is notified, in writing.

d. Paragraph 10-18 (Failure to complete or attend Noncommissioned Officers Education System) provides that Soldiers who fail to successfully complete, fail to remain eligible to be scheduled for or attend, who are denied enrollment in, or who do not attend their scheduled NCOES class (through fault of the Soldier) will be administratively reduced or removed from the promotion list. Soldiers will only be reduced when NCOES is required for his/her current grade. Soldiers will be removed from promotion list when promotion is being held in abeyance (for reasons set forth in paragraph 1–27, of this regulation). The effective date of administrative reduction is the date of the action that caused the Soldier to be ineligible to retain the promotion. The DOR will be the previous DOR held at the reduced grade.

//NOTHING FOLLOWS//