



20 March 1971, in accordance with Army Regulation (AR) 600-200 (Enlisted Personnel Management System), paragraph 7-13 and 7-15.

d. On 19 December 1971:

(1) The applicant completed and signed DA Form 3082-R (Statement of Medical Condition) which shows his grade as E-4.

(2) Headquarters, U.S. Army Personnel Center Fort Lewis, WA, published Special Orders Number 353, which released the applicant from active duty, effective 19 December 1971. The order shows his rank as SP4.

(3) He was honorably released from active duty and was transferred to the U.S. Army Reserve (USAR) Control Group (Annual Training). He completed 1 year, 7 months, and 13 days net active service. DD Form 214 shows in:

- item 5a (Grade, Rate or Rank) – SP4
- item 5b (Pay Grade) – E-4
- item 6 (Date of Rank (DOR)) – 1 February 1971

e. On 28 April 1976, the Office of the Adjutant General Reserve Components Personnel and Administration Center published Letter Orders Number 04-1064221, which discharged the applicant from the USAR Control Group (Standby), effective 1 May 1976. The order shows his rank as SP4.

f. The applicant's record does not contain orders promoting him to the rank of SGT.

4. In support of his request the applicant provides:

a. DA Form 2496-1 – Subject: Recommended List for Promotion to Grade E-5, dated 15 September 1971, which shows his name on the list. It also shows the applicant's military occupational specialty, points, and date selected.

b. DA Form 2446-R undated, which shows a request for orders was submitted for the applicant to be appointed/promoted to the rank of SGT, effective 5 October 1971.

#### BOARD DISCUSSION:

After reviewing the application and all supporting documents, 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 review based on law, policy, and regulation. Upon review of the applicant's petition and available military records, the Board determined his record is absent evidence that

shows he was promoted to sergeant (SGT)/E-5 prior to his release from active duty on 19 December 1971.

BOARD VOTE:

Mbr 1    Mbr 2    Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
█	█	█	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.

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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) 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 600-200 (Enlisted Personnel Management System), in effect at the time, states, promotion of enlisted personnel to grade E-3 through E-9, appointments, grade reductions, and grade restorations will be announced in routine orders.

4. AR 635-5 (Separation Documents), in effect at the time, prescribed policies and procedures regarding separation documents. It also established standardized policy for preparing and distributing the DD Form 214. It stated the purpose of a separation document was to provide the individual with documentary evidence of his or her military service at the time of separation.

a. Section III (Instructions for Preparation and Distribution of the Armed Forces of the United States Report of Transfer or Discharge) contained guidance for preparation of the DD Form 214.

b. It stated all available records would be used as a basis for preparation of the DD Form 214, including the Enlisted Qualification Record, Officer Qualification Record, and orders. The instructions for:

(1) Item 5a stated to enter the grade in which serving at the time of separation, indicating whether permanent or temporary (e.g., SP5 (P)).

(2) Item 5b stated to enter the pay grade.

(3) Item 6 stated to enter the date of rank for the grade shown in item 5a.

//NOTHING FOLLOWS//