

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 April 2025

DOCKET NUMBER: AR20240008476

APPLICANT REQUESTS: promotion reconsideration for 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)
- Army Review Boards Agency letter, 20 March 2024 – Department of the Army Suitability Evaluation Board (DASEB) granting relief of the applicant's request in that the (2) Field Grade Article 15s, (1) Company Grade Article 15 and all related documents be transferred from the performance to the restricted portion of his personnel records; the action was not retroactive nor served as grounds for promotion reconsideration
- DASEB Docket Number AR20240001602, 5 March 2024 – reflective of the applicant's submitted request to have the (3) Article 15s transferred into the restricted portion of his personnel records

FACTS:

1. The applicant states in pertinent part that he:

- was determined to be not fully qualified for the Fiscal Year (FY) 2023 and 2024 Staff Sergeant (SSG) Evaluations Board due to previously received Nonjudicial Punishment (NJP) during the period of 2014-2017
- he has a possible bar to reenlistment (pending)
- he was advised to await the results of the next board; currently completed 19 years of service
- he contests that despite the favorable results of the DASEB, the timeliness of their response prevented him from being considered fairly in comparison to his peers during the FY24 SSG Evaluations Board

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

- On 5 July 2005 – the applicant enlisted in the Regular Army

- On 25 July 2012 (Orders Number 207-89) – promoted the applicant to the rank of SSG with a 1 August 2012 Date of Rank (DOR)
 - On or about 5 June 2014 – the applicant accepted NJP under Article 15, Uniform Code of Military Justice (UCMJ), for wrongfully exchanging personal communications via text message and social media with a trainee in violation of Article 92; reduction to sergeant (SGT), forfeiture of pay for 2 months (suspended); extra duty
 - On or about 2 May 2016 – the applicant accepted NJP under Article 15, UCMJ, for failing to be at his prescribed place of duty in violation of Article 86 and wrongfully grabbing another Soldier in violation of Article 92; forfeiture of pay and extra duty
 - On or about 3 March 2017 – the applicant accepted NJP under Article 15, UCMJ, for wrongfully having inappropriate relationships with trainees in violation of Article 92; reduction to specialist (SPC) (suspended), forfeiture of pay (suspended), extra duty
 - On 5 March 2019 – the applicant completed the Advanced Leaders Course
 - On 28 May 2019 (Orders Number 148-018) – promoted the applicant to SSG with a 1 June 2019 DOR
 - On 26 April 2024 – completed the Senior Leader Course
3. On 31 March 2025, the U.S. S Army Human Resources Command, Chief, Senior Enlisted Promotions, Promotion Branch, provided an advisory opinion recommending denial of the applicant's request noting that although the DASEB granted relief, the decision was not retroactive and therefore does not constitute grounds for promotion reconsideration if previously non-selected.
4. On 2 April 2025, the applicant was provided with a copy of the advisory opinion and afforded 14 days to provide comments. The applicant did not respond.

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, available military records and the U.S. S Army Human Resources Command, Chief, Senior Enlisted Promotions, Promotion Branch advisory opinion, the Board concurred with the advisory official recommendation for denial finding although the DASEB granted relief, the decision was not retroactive and therefore does not constitute grounds for promotion reconsideration if previously non-selected. The Board concluded there was insufficient evidence of an error or injustice which would warrant a change to the applicant's rank.

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.

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. Army Regulation 600-8-19 (Enlisted Promotions) prescribes enlisted promotion and demotion functions.

a. Chapter 4 (Centralized Promotions (Evaluation Boards for Promotion to Sergeant First Class, Master Sergeant and Sergeant Major) provides that to standardize promotions across Regular Army (RA) and U.S. Army Reserve (USAR) units, evaluation boards will convene annually to evaluate Noncommissioned Officers (NCO) (SSG through MSG) who are eligible for consideration by the board with a mission to produce Order of Merit Lists (OML) to qualify and identify the best-qualified NCOs for potential promotion selection (pin-on). Specific to promotion eligibility, the board is required to evaluate a Soldier's performance and potential that will result in categorizing Soldiers. NCOs who have no potential for promotion but are otherwise qualified for retention in

the Army in their current grade will be categorized as "NFQ (Not Fully Qualified)". These NCOs are not eligible for promotion selection or for selection to attend their respective Professional Military Education (PME) course to qualify them for future promotion selection regardless of requirements. NCOs are not given specific reasons for an NFQ determination.

b. Paragraph 4-4 (Information Provided to the Boards) Performance Portion of the Army Military Human Resources Record (AMHRR) – the restricted portion of the AMHRR is authorized for use during the SFC, MSG and CSM.SGM evaluation board only; consistent with the corresponding board's Memorandum of Instruction.

2. Army Regulation 27-10 (Military Justice) provides policies and procedures pertaining to the administration of military justice and implements the Manual for Courts-Martial (MCM), United States, 2008, and the Rules for Courts-Martial (RCM) contained in the MCM. Paragraph 3-37b(1)(a) states for Soldiers at the rank of Sergeant (SGT) and above, the decision to file the original DA Form 2627 in the performance section or the restricted section in the AMHRR will be made by the imposing commander at the time punishment is imposed.

3. Army Regulation 600-37 (Unfavorable Information) provides policies and procedures to authorize placement of unfavorable information about Soldiers in individual official personnel files. Paragraph 7-2c(1) states that records of non-judicial punishment may be transferred upon proof that their intended purpose has been served and their transfer would be in the best interest of the Army. The burden of proof rests with the appellant concerned to provide substantial evidence that these conditions have been met. There are no provisions in governing regulations to automatically transfer an Article 15 based on elapsed time.

4. Army Regulation 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//