

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 April 2025

DOCKET NUMBER: AR20240008919

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) ending on 11 August 1970, to show his rank/grade as specialist five (SP5)/E-5.

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

- DD Form 149 (Application for Correction of Military Record)
- Letter of Commendation dated 7 August 1970, which shows his rank as SP5 and states he had consistently displayed exceptional ability as a crew chief and noncommissioned officer in-charge of the UH-1H helicopter
- DA Form 2376 (Notification to State Adjutants General Release from Active Duty of Obligated Reservist) dated 11 August 1970, which shows his rank as SP5
- Special Orders Number 223 dated 11 August 1970, which released him from active duty, effective 11 August 1970, and shows his rank as SP5
- DD Form 214 ending on 11 August 1970, which shows his rank as SP4 with a Date of Rank (DOR) of 3 October 1969

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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:

- He requests his final discharge rank be SP5
- He wants to correct his rank so that people will know he was not always a fool and to ensure the SP5 rank will be on his military tombstone
- They did not have his orders for SP5/E-5 at Fort Lewis, WA, and he had already shipped everything home to Florida
- He was told it might take two weeks to get his orders or he could just take the discharge that was made out and leave

3. A review of the applicant's military service record shows:

- On 9 January 1969, he was inducted into the Army of the United States
- DA Form 20 (Enlisted Qualification Record) shows in item 33 (Appointments and Reductions) the highest rank/grade he held was SP4/E-4
- On 7 August 1970, the applicant received a letter of commendation showing his rank as SP5
- DA Form 137 (Installation Clearance Record) dated on or about 7 August 1970 shows his rank as SP4
- On 11 August 1970, the following forms and orders show his rank as SP5:
 - DA Form 2376
 - DD Form 1407 (Dependent Medical Care and DD Form 1173 Statement)
 - SF 88 (Report of Medical Examination)
 - Special Orders Number 223 published by Headquarters, U.S. Army Personnel Center
- DD Form 214 shows the applicant was honorably released from active duty on 11 August 1970; it also shows in:
 - Item 5a (Grade, Rate or Rank) – SP4
 - Item 5b (Pay Grade) – E-4
 - Item 6 (Date of Rank) – 3 October 1969
 - Item 18 (Remarks) – Vietnam Service From: 2 July 1969 to 11 August 1970
- On 18 December 1974, Letter Orders Number 12-1360652 discharged the applicant from the Standby Reserve, effective 1 January 1975; the orders show his rank as SP4
- The applicant's military service records are void of orders showing he was promoted to SP5/E-5

BOARD DISCUSSION:

1. 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, the Board concluded although the applicant's record contained numerous documents showing his rank as SP5/E-5 it was void of orders promoting the applicant to SP5/E-5.

The governing regulation in effect at the time provides that the promotion authority from E-4 to E-5 is a field grade commander, promotions will be announced in orders, requires 8 months' time in grade for E-4 to E-5, and 36 months' time in service for primary zone consideration and 24 months for secondary zone consideration. Therefore, the Board denied relief.

2. Prior to the closing of the Board it was noted the applicant's DA Form 20 shows he had all excellent conduct and efficiency ratings, and his record is void of any documentation that would preclude him from award of the Army good Conduct Medal (First Award). Additionally, he qualifies for Vietnam service awards not listed on his DD Form 214. These corrections will be administratively added to his DD Form 214.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

Except for the correction addressed in Administrative Note(s) below, 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 for correction of the records of the individual concerned.

X //SIGNED//

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.

ADMINISTRATIVE NOTES:

A review of the applicant's service record contains sufficient evidence to support he is eligible for awards that are not annotated on his DD Form 214. The applicant's DA Form 20 shows he had all excellent conduct and efficiency ratings, and his record is void of additional Vietnam service awards. Amend the applicant's DD Form 214, ending on 11 August 1970 to show:

- Army Good Conduct Medal (First Award) for the period 9 January 1969 through 11 August 1970
- Four bronze service stars on his already awarded Vietnam Service Medal
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

REFERENCES:

1. Title 10, U.S. Code, 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. Army Regulation (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//