

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-1995-02187  
COUNSEL: NONE  
HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His records be corrected to reflect he retired in the grade of technical sergeant (TSgt) rather than staff sergeant (SSgt).

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THE APPLICANT CONTENDS THAT:

His highest grade held was TSgt. His records reflect he only held the grade of SSgt. He previously applied for correction of records 10 years ago after his retirement; however, his request was denied because his record reflected no promotion to TSgt. He was told that his retired pay would reflect his highest pay grade held after 10 years.

In support of his request, the applicant provides copies of his retirement special order, promotion order and notification of promotion testing letter.

The applicant's complete submission, with attachments, is at Exhibit A.

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STATEMENT OF FACTS:

On 20 January 1965, the applicant enlisted in the Regular Air Force. He was progressively promoted to the rank of TSgt having assumed that grade effective and with a date of rank of 1 August 1980.

On 18 March 1983, the applicant received an Article 15 and his punishment consisted of a reduction in rank from TSgt to SSgt with a new date of rank (DOR) of 18 March 1983.

On 1 February 1985, the applicant was retired in the grade of SSgt after serving 20 years and 11 days.

On 27 February 1996, the Air Force Board for Correction of Military Records (AFBCMR) considered and denied the applicant's request for advancement to the grade of TSgt (Exhibit B).

On 16 May 2011, AFPC/DPSOR informed the applicant that because he held the grade of SSgt on the date of his retirement, his records

correctly reflects his retired grade of SSgt. DPSOR forwarded the applicant's case to the SECAF for a decision as to whether the AF would advance him to a higher grade than SSgt IAW Title 10, USC, section 8964. On 4 October 1995, the Secretary of the Air Force Personnel Counsel (SAFPC) determined the applicant would not be advanced to the higher grade of TSgt when his time on active duty and his time on the retired list totals 30 years under the provisions of Title 10, USC, section 8964. Although the previous advisory from DPSOR erroneously stated there was no evidence the applicant had been a TSgt, the AFBCMR did review the promotion order (SO A-39) while making their final determination (Exhibit C).

The remaining relevant facts pertaining to this application are contained in the letters prepared by the appropriate offices of the Air Force, which is attached at Exhibit C.

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AIR FORCE EVALUATION:

HQ AFPC/DPSOE states the applicant is not challenging the issuance of the Article 15 or subsequent reduction in grade nor did he provide any supporting evidence to suggest the Article 15 was unjust.

The complete DPSOE evaluation is at Exhibit C.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

On 27 May 2011, a complete copy of the Air Force evaluation was forwarded to the applicant for review and response within 30 days. However, as of this date, this office has received no response (Exhibit D).

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THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
3. Insufficient relevant evidence has been presented to demonstrate the existence of an error or an injustice. We took notice of the applicant's complete submission in judging the merits of the case; however, we agree with the opinion and the recommendation of the Air Force and adopt its rationale as the basis for our conclusion that the applicant has not been the victim of an error or an injustice. The applicant was demoted

from TSgt to SSgt due to misconduct. As a result, the applicant was retired in the grade of SSgt in accordance with 10 USC 8961, which states a servicemember will be retired in the grade held on the date of retirement. It appears that at the time of his retirement he was not considered for a highest-grade determination. However, on 4 October 1995, SAFPC determined the applicant would not be advanced to the grade of TSgt on the retired list when his active service plus his service on the retired list totals 30 years. The applicant has not submitted persuasive evidence that he should have been retired in the higher grade of TSgt. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought.

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THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

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The following members of the Board considered Docket Number BC-1995-02187 in Executive Session on 12 July 2011, under the provisions of AFI 36-2603:

Panel Chair  
Member  
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 14 Oct 10, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSOE, dated 11 Apr 11, w/atch.
- Exhibit D. Letter, SAF/MRBR, dated 27 May 11.

Panel Chair