

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2022-02723

XXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

### APPLICANT'S REQUEST

His Date of Rank (DOR) to captain (O-3) be changed from 1 Jan 20 to reflect 1 Dec 17.

### APPLICANT'S CONTENTIONS

On 15 Nov 17, while a member of the U.S. Army National Guard (ARNGUS), the applicant was selected for promotion to captain (O-3). However, his promotion was delayed because he was under investigation from 2016 through 2019. On 3 Jul 19, the allegations against him were found unsubstantiated by a board of officers. In 2020, the applicant met an ARNGUS promotion board and was selected for promotion to captain (O-3) again. The applicant is requesting to have his DOR corrected to 1 Dec 17, so that he can meet the upcoming AFRC Major board in FY23.

On 4 Oct 22, the applicant's squadron commander submitted a letter of support to change his DOR to reflect 1 Dec 17.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is an Air Reserve captain (O-3).

On 15 Nov 17, according to DA Form 4187, *Personnel Action*, dated 4 Dec 17, submitted by the applicant, he was selected for promotion to captain (O-3).

On 25 Mar 21, according to ARPC Form 92, *Appointment Order*, dated 10 May 21, the applicant was assigned to the Air Force Reserve in the grade of captain (O-3) with a DOR of 1 Jan 20.

According to a Military Personnel Data System (MilPDS) SURF, dated 1 Dec 22, the applicant's effective date of promotion reflects 1 Jan 20.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

### AIR FORCE EVALUATION

ARPC/PB, recommends granting the applicants DOR. Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice. On 1 Dec 17, while a member of the U.S. Army National Guard, the applicant was selected for promotion to captain (O-3); however, the promotion was delayed as a result of a pending investigation. On 10 Jul 19, the applicant was notified that on 3 Dec 18, a board found no substantial evidence regarding the allegations presented against him. On 25 Mar 21 the applicant transferred to the Air Force Reserve in the grade of captain (O-3) with a DOR of 1 Jan 20. The applicant met the two year time in grade requirements as a first lieutenant (O-2), and his DOR should be adjusted to reflect 1 Dec 17.

The complete advisory opinion is at Exhibit C.

### **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 18 Nov 22 for comment (Exhibit D), but has received no response.

### **FINDINGS AND CONCLUSION**

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. The Board concurs with the rationale and recommendation of ARPC/PB and finds a preponderance of the evidence substantiates the applicant's contentions. Therefore, the Board recommends correcting the applicant's records as indicated below.

### **RECOMMENDATION**

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show his effective date of rank for promotion to captain (O-3) reflect 1 December 2017.

### **CERTIFICATION**

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2022-02723 in Executive Session on 10 Jan 23:

- , Panel Chair
- , Panel Member
- , Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 4 Oct 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, ARPC/PB, dated 7 Nov 22.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 18 Nov 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

**X**

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Board Operations Manager, AFBCMR