



CUI//SP-MIL/SP-PRVCY

**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

RECORD OF PROCEEDINGS

IN THE MATTER OF:

XXXXXX

DOCKET NUMBER: BC-2023-02458

COUNSEL: XXXXX

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His date of rank (DOR) and effective DOR to major (O-4) be corrected to reflect 27 Jun 21 and 1 Jul 21 respectively.

APPLICANT'S CONTENTIONS

Through no fault of his own, the scroll that appointed him was submitted with the incorrect constructive service computation. When he entered active duty on 1 Jul 21, his constructive service credit (CSC) computation was missing service credit which caused him to be appointed in the grade of captain (O-3); however, in accordance with DAFMAN 26-2032, Table 5.9, Rule 4 he met the CSC requirement to be appointed in the grade of major.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air Force Medical Corp major (O-4).

On 25 Jun 21, according to DPAM Form 60, *Constructive Credit Computation*, the applicant received 9 years of CSC, which was sufficient to be appointed in the grade of captain (O-3).

On 1 Jul 21, according to Special Order XXXXXX, dated 25 Jun 21 the applicant was ordered to active duty in the grade of captain (O-3).

On 25 Jan 22, his DPAM Form 60 was corrected to indicate he received 3 years, 5 months and 17 days of CSC for his time in the Air Force Reserve, rather than 3 years. Additionally, it was corrected to indicate that he received 1 year, 6 months, and 17 days of CSC for his Master of Science in Epidemiology. Accordingly, his total CSC was changed to reflect 11 years, and 4 days, which is sufficient credit for appointment to the grade of major (O-4) and not his previously awarded grade of captain (O-3).

On 16 Feb 23, according to Special Order XXXXXXXX, 21 Feb 23, he was promoted to the grade of major (O-4) with a DOR and effective DOR of 16 Feb 23.

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

**AFBCMR Docket Number BC-2023-02458
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Controlled by: SAF/MRB
CUI Categories: SP-MIL/SP-PRVCY
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

APPLICABLE AUTHORITY

Title 10, United States Code, Section 531: *Original appointments of commissioned officers.* Original appointments in the rank of major (O-4) , lieutenant colonel (O-5) , and colonel (O-6) in the Regular Army, Regular Air Force, and Regular Marine Corps and in the rank of lieutenant commander, commander, and captain in the Regular Navy shall be made by the President, by and with the advice and consent of the Senate.

According to Under Secretary of Defense (Personnel and Readiness) memorandum dated 10 Feb 15, only the President may appoint Regular officers above the grade of O-3 and Reserve officers above the grade of O-5 following Senate confirmation. Only the Secretary of Defense may appoint all other officers because Congress has vested such appointment authority in the President alone, and the President has assigned that function to the Secretary of Defense. This decision affirms that Military Department correction boards do not have the authority to remedy perceived errors or injustices by correcting records to show that an officer has been appointed to a certain grade when the officer has not been appointed to that grade by the President or the Secretary of Defense. Boards may only make such a correction to reflect that a proper appointment has occurred. They may also adjust the DOR of an officer who has been properly appointed.

Air Force Manual (AFMAN) 36-2032, *Military Recruiting and Accessions*, 27 Sep 19:

Table 5.9. Grade Determination

Table 5.9. Grade Determination	A	B
R U L E		
To be eligible for appointment in the grade of		applicant's service credit awarded under paragraph 5.12. must be
3	captain	at least 4 years (See note 2)
4	major	at least 11 years (See note 3)

AIR FORCE EVALUATION

AFPC/DPMN recommends granting the request. Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice. On 15 Mar 21, the applicant was submitted on a Regular appointment nomination in the grade of captain (O-3) and on 21 Jun 21, his regular captain scroll was signed by the Secretary of Defense. On 25 Jun 21, his CSC was calculated, and he received a total of nine (9) years of service credit. This amount of service credit authorized him to be appointed in the grade of captain (O-3).

In accordance with (IAW) DAFMAN 36-2032, Table 5.9, Rule 3, to be eligible for appointment in the grade of captain, his service credit awarded must be at least four (4) years and IAW Rule 4, to be eligible for appointment in the grade of major, his service credit awarded must be at least 11 years.

On 1 Jul 21, he was ordered onto extended active duty in the grade of captain (O-3). However, in Jan 22, AFPC was notified that the additional time he spent in medical residencies training was missing from his total service credit computation. Once the additional service credit was validated

and included in his total service credit computation, his constructive credit was adjusted to 11 years and 4 days. This additional constructive credit would have authorized him to enter onto active duty in the grade of major (O-4). However, the AFPC Medical Officer Accessions Branch does not have the legal authority to change his enter onto active duty grade based on the adjusted amount of service credit without an approved major scroll signed by the Secretary of Defense.

On 16 Feb 23, the applicant was promoted to major through the normal Regular Air Force promotion process with the DOR and effective DOR of 16 Feb 23. However, he should have entered onto active duty in the grade of major (O-4) on 1 Jul 21, per his updated CSC computation.

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 31 Jul 23 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 AFPC/DPMN 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 that:

- a. Competent authority granted 11 years and 4 days of Constructive Service Credit (CSC), when he was accessed into the Regular Air Force in 2021.
- b. His promotion to the grade of major (O-4) be adjusted based on the constructive service credit to reflect a date of rank on 27 June 2021, and an effective date of rank of 1 July 2021.
- c. He receive retroactive pay and allowances based on the corrections to his Constructive Service Credit and his dates of rank.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-02458 in Executive Session on 31 Aug 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, dated 29 Jul 23.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory opinion, AFPC/DPMN, dated 26 Jul 23.

Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 31 Jul 23.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

X

Board Operations Manager, AFBCMR