



CUI//SP-MIL/SP-PRVCY

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2023-02849

COUNSEL: *Work-Product*

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His date of rank (DOR) and effective DOR to captain (O-3) be corrected to reflect 11 Jul 21 and 6 Aug 21, respectively.

APPLICANT'S CONTENTIONS

When he entered active duty his prior commissioned officer credit was missing from his constructive service credit (CSC) total.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 18 May 13, according to DA Form 71, *Oath of Office – Military Personnel*, the applicant accepted appointment in the Army Reserve in the grade of second lieutenant (O-1).

On 14 Aug 14, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant entered active duty in the Regular Army. On 14 Aug 18, he was honorably discharged in the grade of O-3 and credited with 4 years and 1 day of active service and 1 year, 2 months, and 26 days of prior inactive service.

On 27 Jul 21, according to DPAM Form 60, *NC Constructive Credit Computation*, the applicant received 3 years, 5 months, and 12 days of CSC, which was sufficient to be appointed in the grade of first lieutenant (O-2).

On 6 Aug 21, according to Special Order *Work-Product* dated 27 Jul 21, the applicant was ordered to active duty in the Regular Air Force in the grade of O-2, Scroll ID 2312 approved on 21 Jun 21.

On 15 Jun 22, DPAM Form 60, dated 27 Jul 21, was corrected to indicate the applicant received 7 months and 13 days for prior inactive service in the Army Reserve. Accordingly, the applicant's total CSC was changed to reflect 4 years and 25 days, which is sufficient credit for appointment in the grade of O-3.

On 27 Jul 22, according to Special Order *Work-Product* dated 19 Aug 22, the applicant was promoted to the permanent grade of O-3, with a DOR and effective date of 27 Jul 22.

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

**AFBCMR Docket Number BC-2023-02849
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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/GUIDANCE

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 EVALUATION

The Air Force Personnel Center Medical Career Management Division (AFPC/DPMN) recommends granting the request. Based on a review of the provided documentation and analysis of the facts, there is evidence of an error or injustice. In accordance with DAFMAN 36-2032, *Military Recruiting and Accessions*, dated 27 Sep 19, Table 5.9 states the grade eligible for appointment is based on the amount of service credit earned. To be eligible for appointment in the grade of O-2 service credit must be at least 2 years. To be eligible for appointment in the grade of O-3 service credit must be at least 4 years.

On 2 Apr 21, the applicant was nominated for a Regular Air Force appointment in the grade of O-2, and on 21 Jun 21, his O-2 appointment scroll was signed by the Secretary of Defense. On 27 Jul 21, the applicant's CSC was calculated to be a total of 3 years, 5 months, and 12 days, which authorized him to be appointed in the grade of O-2. On 6 Aug 21, the applicant entered extended active duty in the grade of O-2. However, in Jun 22, AFPC was notified that the applicant's CSC total did not include all prior service as a commissioned officer. The additional service credit was validated, and his CSC total was adjusted to reflect 4 years and 25 days. Subsequently, the applicant was promoted to O-3 through the regular promotion process with a date of rank of 27 Jul 22. However, based on the corrected CSC computation, he should have entered active duty in the grade of O-3 with a DOR of 11 Jul 21 and an effective DOR of 6 Aug 21.

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 30 Aug 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 he was promoted to the rank of captain with a date of rank of 11 Jul 21 and effective date of rank of 6 Aug 21.

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-2023-02849 in Executive Session on 21 Sep 23:

<i>Work-Product</i>	Panel Chair
<i>Work-Product</i>	Panel Member
<i>Work-Product</i>	Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 30 Aug 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFPC/DPMN, w/atchs, dated 17 Aug 23.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 30 Aug 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.

5/10/2024

X *Work-Product*

Work-Product
Board Operations Manager, AFBCMR
Signed by: USAF