

## **RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2024-02399

XXXXXXXXXX

**COUNSEL:** XXXXXXXXXXXX

**HEARING REQUESTED:** YES

### **APPLICANT'S REQUEST**

His Effective Date of Rank (EFF DOR) be backdated to either 12 Dec 18 or 1 Dec 21.

### **APPLICANT'S CONTENTIONS**

While on active duty, he was selected for promotion to lieutenant colonel (O-5) by the CY18B Lieutenant Colonel Line of the Air Force (LAF) Central Selection Board (CSB) with a date of rank of 12 Dec 18. He voluntarily transferred to the Florida Air National Guard (FLANG) prior to being promoted to the grade of O-5 and was placed in an O-5 position on 1 Dec 21. He was scrolled under the active-duty list (ADL) to the Reserve Active Status List (RASL) process which was signed by the Secretary of Defense on 11 Aug 22.

Based on the governing regulation, Air Force Instruction (AFI) 36-2504, *Officer Promotion, Continuation, and Selective Early Removal in the Reserve of the Air Force*, there is a case that can be made for either date depending on which dated version of the AFI is used. At the time of the assignment, the current version of the AFI was dated 9 Jan 03 (Certified 22 Jan 10). On 4 Aug 23, the current version of the AFI was released.

The case for the EFF DOR date of 12 Dec 18 is as follows: He transferred to the FLANG and voluntarily delayed his promotion to O-5. Under AFI 36-2504, dated 4 Aug 23, Table 6.1, "Box 10, "Accepts a voluntarily delayed promotion—the date the delays action ends and/or assignment in a higher grade of billet. The promotion effective date will be the same as the DOR." Previously, within his unit other members in the same situation had their effective date of rank mirror their DOR. As this establishes precedence, his EFF DOR should be 12 Dec 18.

The case for the EFF DOR of 1 Dec 21 is as follows: On 1 Dec 21, the FLANG placed him in an O-5 position. The governing directive, dated 9 Jan 03, is unclear as to the ADL to RASL promotion EFF DOR. However, it states "the date can be no earlier than the public release date or the date the officer is placed into the higher graded position." AFI 36-2504, does not state if this relates to either the DOR or the EFF DOR. However, with interpretation it could be considered the EFF DOR. Therefore, since he was placed in the higher graded position on 1 Dec 21, the EFF DOR should be 1 Dec 21.

The applicant's complete submission is at Exhibit A.

### **STATEMENT OF FACTS**

The applicant is an Air National Guard (ANG) lieutenant colonel (O-5).

On 28 Jun 18, according to AF IMT 1288, *Application for Ready Reserve Assignment*, the applicant, then a member of the Regular Air Force (REGAF), applied for a transfer to the Air National Guard.

On 29 Nov 18, according to the *Declination of Promotion Statement*, the applicant acknowledged he declined the promotion to the grade of lieutenant colonel.

On 12 Dec 18, according to National Guard Bureau Special Order Number AP-XXXXX, dated 12 Dec 18, he was extended Federal recognition and promoted in the Reserve of the Air Force to the grade of lieutenant colonel with a DOR of 12 Dec 18 and an Effective DOR of 11 Aug 22.

On 15 Dec 18, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects the applicant honorably resigned from active duty with a narrative reason of "Completion of required Active Service."

On 16 Dec 18, according to AF Form 133, *Oath of Office (Military Personnel)*, he was appointed in the Reserve of the Air Force in the grade of O-4 (major). On that same date, he was granted temporary Federal Recognition in the grade of O-4 in the Florida Air National Guard (FLANG).

On 3 Mar 23, the applicant's Military Personnel Data System (MilPDS) record reflects for the grade/rank of O-5/lieutenant colonel a DOR of 12 Dec 18, and an EFF DOR of 11 Aug 22

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

## **APPLICABLE AUTHORITY/GUIDANCE**

**Air Force Instruction (AFI) 36-2504, *Officer Promotion, Continuation and Selective Early Removal in the Reserve of the Air Force***, 9 Jan 03, 6.4. Transfer of Promotion from the ADL to the RASL. Any officer selected for promotion to a higher grade, who transfers from the ADL to the RASL of the same Armed Forces, will receive their promotion providing the officer remains in the same competitive category. The officer's DOR on the RASL is calculated using the current Reserve of the Air Force requirements for IPZ promotions for the officer's competitive category. HQ ARPC/DPJ will award a DOR based on the calculation (see Table 5.2.). *NOTE:* Officers must notify HQ ARPC/DPJ to receive further instructions.

Chapter 8. Voluntary Delay and Declination of Promotion. 8.1. Purpose. Due to circumstances beyond an officer's control, the officer may be unable to accept promotion. An officer may apply for a voluntarily delay of promotion. For USAFR personnel, the approval authority for voluntary delays is HQ USAF/RE. This authority is hereby delegated to AFRC/CV (unit personnel) and HQ USAF/RE (MA) (IMA personnel). The approval authority for ANGUS personnel is NGB/CF, who hereby delegates it to the Adjutant General. The authority may not be redelegated. The officer shall be considered to have accepted the promotion on the date the promotion is made unless the officer expressly declines the promotion or is granted a delay of promotion.

8.2. Making Application for Delay. An officer must apply for voluntary delay of promotion before a delay may be approved. The application must be approved through the appropriate channels before the DOR. Officers apply by submitting AF Form 3988, *Application for Voluntary Delay, Acceptance, or Declination of Promotion* (in three copies) to unit commanders. All applications must arrive at HQ ARPC/DPJ at least 30 days before DOR (or within 15 days of public release of the results, if DOR is on public release).

8.3. Consequences of an Approval of a Delay in Promotion. If approved, the officer's name remains on the promotion list during the authorized period of delay (unless removed under

another provision of law). At the end of the delay period, or at any time during the delay, the officer may accept the promotion. If the officer wants to accept the promotion before the end of the delay period, an AF Form 3988 indicating acceptance must arrive as stated below, within five days of acceptance of the promotion. The effective date is the date the officer accepts the voluntarily delayed promotion (Table 5.2., Rule 10).

**AFI 36-2501, *Officer Promotions and Selective Continuation***, 16 Jul 04, 4.1. Declining a Promotion. An officer may decline a promotion, in writing, NLT 2400 hours on the day prior to the effective date of promotion. MPF Career Enhancement Element notifies HQ AFPC/DPPPO, with information copy to AF/DPO and MAJCOM/A1 (colonel selects only), when an officer initiates a declination. HQ AFPC/DPPPO will not honor declinations signed on or after the effective date of promotion.

## **AIR FORCE EVALUATION**

NGB/AIPO recommends denying request. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence to support backdating the applicant's effective date of rank (EFF DOR) for pay. The applicant's transfer to the ANG was not a voluntary delayed promotion and does not apply to the ADL to RASL promotion process. When an applicant transfers to the ANG, their promotion must be routed and approved by SecDef via the ADL to RASL staffing process to determine their EFF DOR. The EFF DOR cannot be effective before the officer enters the ANG. Furthermore, the DOR is calculated and awarded by the Air Force Personnel Center, not the ANG. When the officer's DOR is issued by AFPC, their ADL to RASL staffing package can then be routed for final approval by SecDef. An officer's DOR and EFF DOR cannot be the same, thus the DOR issued by AFPC allows for the promotion to be recognized under the ANG and awarded final approval by SecDef.

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 13 Sep 24 for comment (Exhibit D), and the applicant replied on 16 Sep 24. In his response, the applicant provided two additional questions for the board. Specifically, he inquired as to the date/version of the governing directive in place at the time of his situation.

The applicant's complete response is at Exhibit E.

## **AIR FORCE EVALUATION**

AFPC/DPMSSP does not provide a recommendation, only informational verification of the applicant's REGAF military promotion and status at the time he separated from REGAF active duty. They verified he was selected for promotion to lieutenant colonel by the CY18B Lieutenant Colonel Line of the Air Force Central Selection Board, with a promotion sequence number of 211 and a date of rank of 12 Dec 18. However, on 29 Nov 18, he declined his REGAF lieutenant colonel promotion by signing a Promotion Declination Statement. He then separated from active duty on 15 Dec 18. As a note, AFPC Officer Promotions does not establish members' initial date of rank when being assessed into the ANG.

The complete advisory opinion is at Exhibit F.

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

The Board sent a copy of the advisory opinion to the applicant on 3 Mar 25 for comment (Exhibit G) 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 not the victim of an error or injustice. The Board concurs with the rationale and recommendation of NGB/AIPO and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board finds that the applicant's reason for promotion declination does not meet the criteria established by the governing directive, AFI 35-2504, *Officer Promotion, Continuation and Selective Early Removal in the Reserve of the Air Force*, dated 9 Jan 03, Chapter 8, as his timing to transfer to the Air National Guard was wholly within his control. Further, the Board determines the applicant provided insufficient evidence he applied for a voluntary promotion delay prior to separating from active duty. Therefore, the Board recommends against correcting the applicant's records.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

## **RECOMMENDATION**

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

## **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-2024-02399 in Executive Session on 8 Apr 25:

, Panel Chair  
, Panel Member  
, Panel Member

All members voted against correcting the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 7 Jul 24.  
Exhibit B: Documentary evidence, including relevant excerpts from official records.  
Exhibit C: Advisory Opinion, NGB/AIPO, dated 5 Sep 24.  
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 13 Sep 24.  
Exhibit E: Applicant's Response, dated 16 Sep 24.  
Exhibit F: Advisory Opinion, AFPC/DPMSPP, dated 3 Mar 25.  
Exhibit G: Notification of Advisory, SAF/MRBC to Applicant, dated 3 Mar 25.

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**

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Board Operations Manager, AFBCMR