

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 March 2024

DOCKET NUMBER: AR20220010286

APPLICANT REQUESTS: a change of the effective date of rank (DOR) of his promotion to captain (CPT/O-3) to an earlier date.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record), 17 October 2022
- DA Form 67-10-1 (Officer Evaluation Report), for the period 17 July 2017 to 10 December 2017
- Memorandum, Troop G (-) Support Squadron, 287th Armored Cavalry Regiment (ACR), [REDACTED] ARNG, 7 March 2018, (Assumption of Command)
- memorandum, Joint Force Headquarters (JFHQ), [REDACTED] Army National Guard ([REDACTED] ARNG), 15 March 2018, (Appointment of Primary Hand Receipt Holder)
- JFHQ Orders 103-1003, 13 April 2018
- DA Form 67-10-1, for the period 10 December 2017 to 9 December 2018
- JFHQ, [REDACTED] ARNG, Orders 351-1010, 17 December 2018
- ARBA letter, 22 October 2019
- memorandum, Troop G Support Squadron, 278th ACR, [REDACTED] ARNG, 16 December 2019, (Request to Change DOR for (Applicant))
- memorandum, JFHQ, [REDACTED] ARNG, 25 March 2020, (Returned without Action: Request to Change DOR for (Applicant))

FACTS:

1. The applicant states, in effect:

a. His effective DOR to the rank/grade of CPT/O3 should be 20 December 2017 instead of 14 May 2019.

b. The submission of his commissioned officer promotion packet was delayed until 13 December 2018 due to a wait for transfer orders that were not effective until 15 March 2018. This further delayed his effective officer evaluation report from his previous unit.

c. His service in his position of higher responsibility, assumption of command, and primary hand receipt holder (PHRH) appointment began on 20 December 2017.

2. The applicant provided copies of:

a. A DA Form 67-10-1, for the period 17 July 2017 to 10 December 2017, showing he was given an annual evaluation report in the rank of first lieutenant (1LT)/O-2, while assigned as the Executive Officer, Troop G (-), Support Squadron, 278th ACR. This form was approved by the senior rater on 26 November 2018.

b. A memorandum issued by JFHQ, [REDACTED] ARNG dated 7 March 2018, shows he assumed command of Troop G, Support Squadron, 278th ACR.

c. A memorandum dated 15 March 2018, which shows the AG, [REDACTED] ARNG appointed the applicant as the PHRH of Troop G, Support Squadron, 278th ACR.

d. Orders 103-1003 issued by JFHQ, [REDACTED] ARNG, dated 13 April 2018, released him as the Executive Officer, Troop B, Support Squadron, 278th ACR, and transferred him to Commander, Troop G (-), Support Squadron, 278th ACR, effective 15 March 2018.

e. A DA Form 67-10-1, for the period 10 December 2017 to 9 December 2018, shows he was given an annual evaluation report in the rank of 1LT/O-2, while assigned as the Troop Commander, Troop G (-), Support Squadron, 278th ACR. This form was approved by the senior rater on 2 January 2019.

f. Orders 315-1010, issued by FTHQ, [REDACTED] ARNG, dated 17 December 2018, promoted the applicant to CPT/O-3, effective 13 December 2018. This was a vacancy promotion.

g. Special Orders Number 153, issued by the Nation Guard Bureau (NGB), dated 5 June 2019, announced the extension of Federal Recognition in the ARNG as a CPT/O-3, with a DOR of 14 May 2019.

h. In a prior request to the ABCMR, ARBA sent the applicant a letter, 22 October 2019, which notified him that he need to first apply to his State Adjutant General for a change to his DOR before applying to the ABCMR. His case was administratively closed without further action.

i. On 16 December 2019, the applicant sent a memorandum, through his command to the NGB, requesting a change of his effective DOR. This request reads, in part:

(1) The submission of the commissioned officer vacancy promotion packet was delayed due to awaiting transfer orders that were not effective until 15 March 2018 and

delayed further due to awaiting OER submission form previous unit. The packet was not submitted until 13 December 2018.

(2) His service in this position of higher responsibility began in 2017. Assumption of command and PHRH appointment began on 20 December 2017.

j. A memorandum from the NGB, dated 25 March 2020, declined to take action on his request for a change to his effective DOR. It reads, in part:

(1) DOR and Effective Date for Unit Vacancy Promotions (VPI) will be when the scroll is approved by the Secretary of Defense (SECDEF). Prior to being granted federal recognition, an officer recommended for a UVP must be filling a qualified vacancy in the next higher grade, recommended by their immediate commander, and be examined and recommended by a State Federal Recognition Board (FRB). Upon approval of the FRB, the process to receive permanent federal recognition begins. This process ends when the scroll is approved by SECDEF, and Effective Date and DOR are applied as previously stated.

(2) If an officer feels there was a delay in processing of their promotion scroll between State FRB and Scroll publication, they are urged to file an appeal with the ABCMR.

3. A review of the applicant's service records shows:

a. On 10 May 2013, he completed an Oath of Office and was appointed as a Reserve Commissioned officer in the [REDACTED] ARNG, following a period of prior enlisted service in the [REDACTED] ARNG.

b. On 7 November 2014, he was promoted to 1LT/O-2.

c. On 17 December 2018, the JFHQ, [REDACTED] ARNG, promoted him to CPT/O-3 with an effective date of 13 December 2018. This was a vacancy promotion in the duty role of commander.

d. A memorandum issued by the NGB dated 5 June 2019, appointed him a CPT as Reserve Commissioned officer of the Army, effective 14 May 2019, while assigned to Troop G, Support Squadron, 278th ACR.

e. On 7 April 2023, the Adjutant General, [REDACTED] ARNG, separated him in lieu of elimination, effective 10 March 2023, and assigned him to Headquarters and Headquarters Command (HHC), Brigade Support. His position title was shown as Operations Officer.

f. On 11 April 2023, the NGB issued Special Orders Number 133 AR, withdrawing Federal recognition status, effective 10 March 2023.

g. His NGB Form 23A (ARNG Annual Statement), dated 29 April 2023, shows he completed 13 years of creditable service for retired pay.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military records, the Board determined there is insufficient evidence to show there is an error or injustice regarding the applicant's date of rank (DOR). The Board noted the applicant received orders that promoted him to the grade/rank of CPT/O-3, with an effective date of 13 December 2018. This was a vacancy promotion. Based on the memorandum from the Joint Force HQs- Tennessee National Guard- Deputy Chief of Staff, Personnel, noting that for Unit Vacancy Promotions (UVP) the effective date is based on the scroll being approved by the Secretary of Defense. Evidence shows the scroll, and his federal recognition board was not approved until 14 May 2019. Based on the preponderance of evidence, the Board determined the applicant's contention for change of his effective date of rank (DOR) for his promotion to captain (CPT/O-3) to an earlier date is without merit and denied relief.

BOARD VOTE:

| <u>Mbr 1</u> | <u>Mbr 2</u> | <u>Mbr 3</u> |                      |
|--------------|--------------|--------------|----------------------|
| :            | :            | :            | GRANT FULL RELIEF    |
| :            | :            | :            | GRANT PARTIAL RELIEF |
| :            | :            | :            | GRANT FORMAL HEARING |
| ■            | ■            | ■            | DENY APPLICATION     |

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

3/19/2024

X

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

2. National Guard Regulation 600-100, currently in effect, provides procedures for processing all applications for Federal Recognition, waivers, revises the list of documents required for appointment, gives new policy on the Early Commissioning Program (ECP), announces new policies dealing with civilian and military education requirements, changes specialty branch assignment policies, changes specialty branch promotion policies, changes general officer management policies, as it pertains to commissioned and general officers.

a. 2-2. Policy.

(1) The appointment of officers in the ARNG is a function of the State concerned, as distinguished from the Federal Recognition (FEDREC) of such appointment. Upon appointment in the ARNG of a State, and subscribing to an oath of office, an individual has a State status under which to function. Such individuals acquire a Federal status when they are Federally recognized and appointed as a Reserve of the Army.

(2) The effective date of Federal Recognition for original appointment is that date on which the commissioned officer executes the oath of office in the State and is federally recognized (10 USC 12211(b) and 32 USC 308).

(3) Federal Recognition will continue in effect as long as the commissioned officer continues to meet requirements of the grade and position or until recognition is withdrawn in accordance with regulations, or as otherwise provided by law.

b. Paragraph 8-3. Promotion as a Reserve Commissioned Officer of the Army. A commissioned officer who has been promoted by the State and extended Federal Recognition in the higher grade will be concurrently promoted to the higher grade in the Reserves of the Army with assignment to the ARNGUS.

(1) An officer's effective date and date of rank (DOR) as a Reserve of the Army will be determined by their duty status, type of selection board which selected the officer, and delay status (if applicable), and will be as defined below, unless otherwise provided by law. CNGB will extend Federal Recognition in the higher grade to an ARNG commissioned officer using NGB Form 0122E series orders (NGB Special Federal Recognition Orders). The Effective Date determines the officer Federal pay and allowances in the next higher grade. The Effective Date is determined when CNGB in conjunction with the Secretary of Defense (SECDEF) approval or the Senate confirmation date (COLs only). The Effective Date is displayed as the "A" Date on the Promotion as a Reserve Commissioned Officer of the Army Memorandum for Commissioned Officers. The DOR is the date the Officer actually or constructively was appointed or promoted to a specific grade. The DOR is used in calculating time in grade toward promotion consideration in the next higher grade. It is the date used to determine the relative seniority for Officers holding the same grade. The DOR is displayed as the "B" Date on the Promotion as a Reserve Commissioned Officer of the Army Memorandum for Commissioned Officers. If the Officer is recommended for promotion via the FRB/UVP process, the "B" Date will match the "A" Date.

(2) Effective Date and DOR Determinations. Effective Date and DOR are established based on eligibility dates. The following date determinations do not apply to 1LT: Unit Vacancy Promotion (UVP). Effective Date and DOR are the same date and are established when the scroll is either approved by the SECDEF (LTCs and below) or the Senate confirmation date (COLs only).

//NOTHING FOLLOWS//