

IN THE CASE OF [REDACTED]

BOARD DATE: 10 April 2024

DOCKET NUMBER: AR20230002317

APPLICANT REQUESTS: correction of his Date of Rank (DOR) for promotion to the rank/grade of first lieutenant (1LT)/O-2 to show 17 November 2020. In the alternative he requests a DOR of 17 May 2021.

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum for Record (MFR), Subject: For Military Service Obligation in the [REDACTED] Army National Guard (ARNG) Statement of Understanding (SOU)
- Memorandum, Subject: SOU of Responsibilities under Provision of the Early Commissioning Program (ECP)
- Text message number 1
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Email correspondence
- Text message number 2

FACTS:

1. The applicant states, in pertinent part:

a. He is an ECP LT, who received promotion from second lieutenant (2LT)/O-1 to 1LT/O-2, effective 1 April 2022. He attended the [REDACTED] Military Institute, where he received his commission on 17 May 2019, branching Military Police (MP) in the [REDACTED] Army National Guard ([REDACTED] ARNG). Upon commissioning, he transferred into the [REDACTED] ARNG, assigned to the 29th MP Company out of [REDACTED] and the University [REDACTED]. He was a full-time student while also serving as a Platoon Leader in M-Day status. Part of his transfer to the University [REDACTED] included a commitment with the [REDACTED] ARNG in the form of a Memorandum of Understanding (MOU, Appendix A), to which he signed a SOU with the Officer Strength Manager of the state [REDACTED], then Captain (CPT) [REDACTED]. The MOU allowed him to fill in a position at the 29th MP Company, and the SOU stated he would commit to two years to the [REDACTED] ARNG, until May of 2021. When he joined the [REDACTED] ARNG, the eligibility for promotion from 2LT

to 1LT was 18 months, which for him was 17 November 2020, according to Army Regulation (AR) 600-8-29 (Officer Promotions), Section 2-7, c.

b. On 6 July 2020, National Guard Regulation (NGR) 600-100 (Commissioned Officers Federal Recognition and Related Personnel Actions), section 8-9 c., was revised and changed the procedure for ECP promotions in all ARNGs to 24 months Time in Grade (TIG) in order to be eligible for promotion to 1LT. This National Guard Bureau (NGB) regulation went into effect three months before his scheduled promotion, and affected his eligibility date for promotion. His chain of command had not taken the process seriously, nor had they taken the proper action in time for his promotion in November 2020. After verbally alerting his company and Readiness Noncommissioned Officer (Sergeant First Class [REDACTED]) about his promotion months prior to the 17 November 2020 date and that nothing was being done about it, he then spoke with his Battalion (BN) S-1 (CPT [REDACTED]) directly to work on the action, where she agreed to help him with the process of the promotion. Unfortunately, he received no help again. He contacted CPT [REDACTED] multiple times via email and text message to get an update on the process and provide any assistance from his part. On 6 October, he texted his commanding officer that he had taken it upon himself to initiate DA Form 78 (Recommendation for Promotion to 1LT/Chief Warrant Officer Two (CW2)). He also mentioned to her in a phone call after that message was sent, that he had contacted the BN S-1 multiple times and weeks before the text was sent about the action, to which he received no response. He then requested Inspector General (IG) assistance with the [REDACTED] ARNG IG office on October/November of 2020. The IG team's help was to facilitate and start the process of the promotion in a timely manner. The IG team provided him with the information on the new regulation change in NGR 600-100. He asked the IG if he was able to be 'grandfathered' into the regulation upon which he had entered the [REDACTED] ARNG, which was 18 months TIG. The answer he received was, to take it up with the Army Board for Correction of Military Records after he had received his promotion and state his case.

2. A review of the applicant's official record shows the following:

a. On 17 May 2019, the applicant was appointed as a Reserve commissioned officer and executed an oath of office.

b. On 12 November 2019, Special Orders Number 325 issued by the NGB extended Federal Recognition to the applicant in the [REDACTED] ARNG with assignment to the 29th MP Company.

c. On 9 May 2019, Orders Number 129-017 issued by Headquarters, U.S. Army Cadet Command, reassigned the applicant from the Reserve Officers' Training Corps ECP and assigned him to the U.S. Army Reserve (USAR) Control Group (Officer Active Duty Obligor), effective 17 May 2019.

d. On 31 July 2019, Orders Number 212-009 issued by the Department of Military Affairs, assigned the applicant to Headquarters and Headquarters Detachment, 515th Combat Sustainment Support Battalion for appointment as a cadet, effective 18 July 2019.

e. On 30 June 2021, the applicant was honorably released from the ARNG and transferred to the USAR Control Group (Reinforcement). He completed 2 years of net service.

f. On 14 September 2021, Orders Number 1391599 issued by the Army Element Joint Force Headquarters, released the applicant from the 29th MP Detachment and reassigned him to the USAR Control Group (Individual Ready Reserve (IRR)) in the rank/grade of 2LT/O-1, effective 30 June 2021, by reason of resignation from the ARNG.

g. On 22 September 2021, Orders Number C-09-110129 issued by the U.S. Army Human Resources Command (HRC), released the applicant from the USAR Control Group (Reinforcement) and assigned him to the 340th MP Company, effective 1 July 2021.

h. On 23 April 2022, Orders Number B-04-202061 issued by HRC, promoted the applicant to the rank/grade of 1LT/O-2, effective on with a DOR of 1 April 2022.

i. DA Form 1059 (Service School Academic Evaluation Report) shows the applicant attended and completed the MP Basic Officer Leader Course on 7 December 2022.

3. The applicant provides:

a. MFR, Subject: For Military Service Obligation in the [REDACTED] ARNG SOU dated 4 January 2019 which shows the applicant agreed to remain in an active status in the [REDACTED] ARNG for the remainder of his statutory obligation or two years from the date of his State appointment; whichever was later.

b. Memorandum, Subject: SOU of Responsibilities under Provision of the ECP wherein the applicant agreed under the provisions of AR 145-1 (Senior Reserve Officers' Training Corps (ROTC) Program: Organization, Administration, and Training) to serve in a Reserve Component unit and he would become a 2LT on 17 May 2019.

c. Text message number 1 wherein the applicant sent the message to CPT [REDACTED] informing the recipient he had started his DA Form 78. He had emailed CPT [REDACTED] a few weeks prior to follow up on a conversation he had with her pertaining to his promotion. The form needed to be validated by the company, signed by the recipient of the text

message and the BN Commander. The applicant at the time was 40 days away from his eligibility date for promotion.

d. DD Form 214 showing the applicant entered active duty on 3 April 2020 and was honorably released from active duty on 21 July 2020 upon completion of support of the COVID-19 response.

e. Email correspondence wherein the applicant corresponded with the IG pertaining to his promotion to 1LT. He was provided with applicable regulatory references and his case was closed.

f. Text message number 2 wherein CPT [REDACTED] responds to the applicant reference completing his packet for discharge prior to March.

4. On 27 November 2023, in the processing of this case, the NGB, Chief, Special Actions Branch, provided an advisory opinion stating in pertinent part:

a. In accordance with the [REDACTED] ARNG, the applicant received a commission through the ROTC ECP on 17 May 2019. In accordance with NGR 600-100, chapter 12-7c, he would have been eligible for promotion at 24 months post his commissioning date without having to complete an Officer Basic Course.

b. Additionally, the unit that he was assigned never processed a promotion packet to [REDACTED] ARNG (Office of Personnel Management) due to him submitting a request for release to the IRR on 26 June 2021. The [REDACTED] ARNG would not have been able to process both actions simultaneously. Ultimately the release to IRR was processed and he was transferred to the IRR with an effective date of 30 June 2021.

c. Upon coordination with the ARNG Federal Recognition section, the applicant was eligible to be promoted at 24 months' TIG. Based on these reasons, this office recommends partial approval and that his DOR be adjusted to 17 May 2021 instead of his first request of 17 November 2020.

d. The [REDACTED] ARNG concurs with this opinion. The ARNG Federal Recognition section concurs with this opinion.

5. On 29 November 2023, the applicant was provided with a copy of the advisory opinion for comment or rebuttal.

6. On 3 December 2023, by email, the applicant responded concurring with the recommendation made by the advisory official.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was 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, available military records and National Guard Bureau – Special Actions Branch advisory opinion, the Board concurred with the advising official finding the applicant would have been eligible for promotion at 24 months post his commissioning date without having to complete an Officer Basic Course. The Board noted the applicant's unit never processed a promotion packet due to him submitting a request for release to the Inactive Ready Reserve (IRR).

2. The Board determined based on the advising opine partial approval recommendation, there is sufficient evidence to support adjusting the applicant's date of rank to 17 May 2021 verses his requested date of 17 November 2020. Based on this, the Board granted partial relief.

BOARD VOTE:



Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
■	■	■	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be adjusted to show his DOR and effective date of rank to 1LT/O-2 as 21 May 2021. Recommend DFAS-IN determined exact arrears payment.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to correction of his Date of Rank (DOR) for promotion to the rank/grade of first lieutenant (1LT)/O-2 to show 17 November 2020.

4/11/2024

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.

REFERENCE:

NGR 600-100 (Commissioned Officers Federal Recognition and Related Personnel Actions), dated 6 July 2020, prescribes policies and procedures governing the appointment, assignment, temporary Federal Recognition, Federal Recognition, reassignment, transfers between States, branch transfers, area of concentration designation, utilization, branch detail, and attachment of commissioned officers of the ARNG.

a. Paragraph 8-9 (Promotion to 1LT) states, the State must consider all 2LTs for promotion and complete NGB Form 78 (Recommendation for Promotion to 1LT/CW2) at 18 months, regardless if the 2LT is qualified and recommended for promotion. If a 2LT is not recommended for promotion at 18 months, the commander must submit an NGB Form 78 with a request for separation or a request for The Adjutant General of the State to grant a 24-month extension.

b. Chapter 12 (ROTC ECP) provides the policies and procedures to be used in the commissioning, assignment, control and administration of ROTC cadets who are

appointed under the ECP. These procedures apply only to personnel accepted for the assignment to ARNG units. A cadet is first commissioned in the USAR Control Group (Officer Active-Duty Obligor). 2LTs will be considered for promotion at 18 months TIG.

c. Paragraph 12-7 (Basic Officer Leaders Course training for officers commissioned under the ECP) states ECP officers will be scheduled to attend a resident Basic Officer Leader Course as soon as possible following graduation from the baccalaureate degree program by the Commander, HRC-Army Reserve Personnel Command. During the 36 month they are allowed to complete the baccalaureate degree, ECP 2LTs may be promoted to 1LTs without attending the Basic Officer Leader Course, at 24 months of commissioned service, but may not be promoted to CPT until successfully completing the Basic Officer Leader Course and baccalaureate degree requirements.

//NOTHING FOLLOWS//