

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 July 2024

DOCKET NUMBER: AR20230003182

APPLICANT REQUESTS: correction of his Date of Rank (DOR) for promotion to the ranks of chief warrant officer two (CW2) and chief warrant officer three (CW3).

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

- DD Form 149 (Application for Correction of Military Record)
- Federal Recognition (FEDREC) Packet and supporting documents
 - DA Form 1059 (Service School Academic Evaluation Report)
 - Personnel Qualification Record (PQR)
 - DD Form 2992 (Medical Recommendation for Flying or Special Operational Duty)
 - DA Form 705 (Army Physical Fitness Test Scorecard)
 - DA Form 5500 (Body Fat Content Worksheet (Male))
 - DA Form 67-10-1 (Company Grade Plate Officer Evaluation Report)
 - PQR
 - Officer Record Brief (ORB)
 - Memorandum, Subject: Notification/Verification of Security Clearance
 - Memorandum, Subject: Recommendation for Promotion of Warrant Officer
- Orders Number 028-546
- Orders Number 077-514
- Orders Number 2099285

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states, the Alabama Army National Guard (ALARNG) failed to promote him from WO1 to CW2 and from CW2 to CW3 in a timely manner. His appointment to WO1 was 28 January 2011 which should have resulted in a promotion to CW2 on 28 January 2013. He was not promoted to CW2 until 27 July 2013 resulting in six months of Time in Grade (TIG) lost. With the new promotion date of 27 July 2013, he should have been promoted to CW3 by 27 July 2019 but was not promoted until 16 August 2022 resulting in a loss of TIG of over three years. The failure to promote in a timely manner for both promotions has resulted in three and a half years of TIG lost which has significantly delayed his promotion progression as well as significant financial implications. If his promotions had been submitted and approved in a timely manner, he should be looking at his next promotion to chief warrant officer four (CW4) with a promotion date of 28 January 2025. Instead, with the delayed promotions he is now looking at a promotion date to CW4 of 16 August 2028. None of these promotion delays was his fault.

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

a. On 20 January 2011, having had prior enlisted service in the ARNG, the applicant was appointed as a Reserve warrant officer and executed an oath of office.

b. On 1 February 2011, the National Guard Bureau (NGB) issued Special Orders Number 19 extending FEDREC for the applicant's initial appointment in the ARNG, effective 20 January 2011, in the rank of WO1.

c. DA Form 1059 (Service School Academic Evaluation Report), dated 24 January 2013, shows the applicant attended and completed the CH-47 track aircraft qualification course and Basic Officer Leader Course from 18 January 2011 through 24 January 2013.

d. On 3 April 2014, the NGB issued Special Orders Number 81 extending FEDREC for the applicant's promotion to the rank of CW2, effective on with a DOR of 27 July 2013.

e. DA Form 1059, dated 18 July 2020, shows the applicant attended and completed the Aviation Warrant Officer Advanced Course – Reserve Component.

f. On 15 October 2022, the NGB issued Special Orders Number 88 extending FEDREC for the applicant's promotion to the rank of CW3, effective on with a DOR of 16 August 2022.

g. On 2 April 2024, the NGB issued Special Orders Number 127 extending FEDREC and amending Special Orders Number 88 adjusting the applicant's promotion to the rank of CW3, effective on with a DOR of 22 April 2022.

h. On 9 May 2024, the ALARNG issued Orders Number 2099285.01 amending Orders Number 2099285 for the applicant's promotion to the rank of CW3, effective on with a DOR of 22 April 2022.

4. The applicant provides:

a. FEDREC packet with supporting documents which included:

(1) PQR showing his personnel qualifications.

(2) DD Form 2992 showing he was cleared for flight duty and his rank at the time was CW2.

(3) DA Form 705 showing he passed his physical readiness tests.

(4) DA Form 5500 showing he met the Army Body Composition Program requirements.

(5) DA Forms 67-10-1 showing he was evaluated as a CH-47 instructor pilot.

(6) ORB showing his personnel qualifications.

(7) Memorandum, Subject: Notification/Verification of Security Clearance showing he was granted a security clearance.

(8) Memorandum, Subject: Recommendation for Promotion of Warrant Officer showing he was recommended for promotion to CW3.

b. Orders Number 028-546 issued by the Joint Force Headquarters ALARNG which appointed the applicant in the ARNG in the rank of WO1, effective 20 January 2011.

c. Orders Number 077-514 issued by the Joint Force Headquarters ALARNG which promoted the applicant to the rank of CW2, effective on with a DOR of 27 July 2013.

d. Orders Number 2099285 issued by the ALARNG which promoted the applicant to the rank of CW3, effective on with a DOR of 16 August 2022.

5. On 29 May 2024, in the processing of this case, the NGB, Chief, Special Actions Branch, provided an advisory opinion recommending partial approval and stating in pertinent part:

a. On 1 February 2011, NGB Form 0122E was published for the applicant's initial appointment as WO1, Branch 001A, with an effective date of 20 January 2011. On

24 January 2013, the applicant completed the Warrant Officer Basic Course (WOBC). Since he did not get WOBC completed within the 2-year time frame, which would have been 20 January 2013, his DOR should be the day after completion of WOBC which would put the DOR as 25 January 2013 to CW2.

b. On 3 April 2014, NGB Form 0122E was published for his promotion to CW2 with an effective date of 27 July 2013. His DOR should have been 25 January 2013 because he met TIG on 24 January 2013 when WOBC was completed, and he became eligible for promotion to CW2.

c. On 10 April 2014, NGB Form 0123E was published for an MOS change from 001A to 154F. Effective date of the change is 24 January 2013, the date he completed WOBC.

d. On 22 November 2019, the NGB published a Revision of Minimum Warrant Officer Education System (WOES) Requirements for Promotion Eligibility. (Personnel Policy Operational Memorandum (PPOM) Number 19-042) states, CW2 to CW3 promotions only require WOBC if the Command chooses to promote due to performance, experience, and development.

e. On 18 July 2020, the applicant completed the Warrant Officer Advanced Course (WOAC) requirement for promotion to CW3. It is unclear as to why his promotion packet was not submitted until 2022. Technically his unit, if aware of PPOM Number 19-042, could have submitted him for promotion after 22 November 2019 because he had completed the required professional military education of WOBC, per the PPOM.

f. 25 Oct 2019 thru 30 Sep 2020 he was on active-duty orders at Fort Novesal which was extended multiple times until 2023. Due to him being on orders and not present, the lack of knowledge at the unit level regarding PPOM Number 19-042, and amid COVID is believed to be factors contributed to a packet not being submitted.

g. It is the opinion of the ALARNG Office of Personnel Management (OPM) that his DOR should be adjusted for CW2 from 25 July 2013 to 25 January 2013. His DOR should have been 25 January 2013 because he met his TIG on 24 January 2013 when the required WOBC was completed, and he became eligible for promotion to CW2. The ALARNG OPM could not find a reason why his packet was not processed correctly.

h. If the applicant's records cannot be backdated in reference to PPOM Number 19-042, published 22 November 2019 making him qualified with completion of WOBC, then his DOR should be backdated to 18 July 2020, which is when he completed WOAC for CW3. The unit recommendation memo stated the DOR should be effective

27 July 2013, which was incorrect because he was not eligible until completion of his WOAC on 18 July 2020 because PPOM Number 19-042 was not in effect until 22 November 2019.

i. A review of the applicant's request by the ARNG FEDREC Team confirms his initial appointment and WOBC completion dates. A recommendation for promotion to CW2 (NGB form 78) shows an erroneous effective date of 27 July 2013. The applicant is a part of the DOR adjustment group case for service members who had a delay in promotion from June 2021 to October 2022. FEDREC recently did a DOR change for his promotion to CW3 to show 22 April 2022.

j. After further review of the applicant's documents provided and discussions with the ALARNG and ARNG FEDREC Team, it is the conclusion of this office, that the applicant had an erroneous effective date listed on the NGB Form 78 and he is a part of the DOR adjustment group case. A recent DOR adjustment was made to his promotion to CW3 to show 22 April 2022. This office recommends his request for a DOR adjustment for CW2 and CW3 be partially granted. A DOR adjusted to CW2 should be made to show 25 January 2013 and all back pay and entitlements processed. The recent DOR adjustment for CW3 should be maintained but he should submit a separate ABCMR if he has a substantiating case for a new DOR for CW3.

k. The ARNG Federal Recognition concurs with this recommendation.

l. The ALARNG states given the date of the board on the NGB Form 89 and the State Order memo of 20 January 2022 the ALARNG recommends the applicant's DOR for CW3 be changed to reflect a DOR of 18 July 2020 which is when he completed WOAC.

6. On 11 June 2024, the applicant was provided with a copy of the advisory opinion for comment or rebuttal. He did not respond.

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 recommendation for partial approval finding sufficient evidence for correction of the applicant's Date of Rank (DOR) for promotion to the rank of chief warrant officer two (CW2).

2. The effective date of promotion is established under law by Title 10, U.S. Code and is approved by the SECDEF. This Board, acting under the authority of the Secretary of the Army, does not have the authority to change the effective date. However, for administrative purposes, such as time in grade for promotion consideration, this Board may adjust an officer's DOR. The Board agreed based on the advising official opine and preponderance of evidence, there is sufficient documentation to amend the applicant's date of rank for CW2 to show his effective date as 25 January 2013. The opined noted the applicant's date of rank for CW3 was already adjusted to show 22 April 2022. Based on this, the Board granted partial relief to correct the applicant's date of rank for CW2 to show 25 January 2013 with all back pay and entitlements.

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 corrected by showing the applicant's date of rank (DOR) with an effective date of 25 January 2013, to the rank of Chief Warrant Officer Two (CW2) and all back pay and applicable allowances.

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 of chief warrant officer three (CW3).

[REDACTED]

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. Title 10, USC, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. National Guard Regulation 600-101 (Warrant Officers Federal Recognition and Related Personnel Actions) states Warrant Officers of the ARNG are appointed by the States, and are federally recognized through the Chief, NGB. The promotion of Warrant Officers in the ARNG is a function of the State. A Warrant Officer who is promoted by the State and extended Federal Recognition in the higher grade will be concurrently promoted to the higher grade in the Reserve of the Army with assignment to the Army National Guard of the United States (ARNGUS). Table 7-1 (Minimum TIG for promotion) shows WO1 to CW2 is 2 years in the lower grade and CW2 to CW3 is 5-years in the lower grade. Table 7-2 Minimum Warrant Officer Education System requirements for promotion, Time in Current Grade and Course Enrollment) shows for promotion to CW2 WOBC is a requirement and for promotion to CW3 requires WOAC.

3. PPOM Number 19-042, dated 22 November 2019, states for promotion from WO1 to CW2 and CW2 and CW3 WOBC is an educational requirement.

4. Department of Defense Instruction 1310.01 (Rank and Seniority of Commissioned Officers) states the Secretary of the Military Department concerned may adjust the DOR of an officer, except a general or flag officer, appointed to a higher grade under Title 10, USC, sections 624(a) or 14308(a) if the appointment of that officer to the higher grade is delayed by unusual circumstances. The Secretary of the Military Department concerned must determine that the unusual circumstance caused an unintended delay in processing or approval of the selection board report or promotion list in order for an officer's DOR to be adjusted.

//NOTHING FOLLOWS//