

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 August 2024

DOCKET NUMBER: AR20230003233

APPLICANT REQUESTS: correction to his date of rank (DOR) and effective date of promotion to Captain (CPT) from 23 January 2023 to 1 December 2021 or aligned with a scroll that was published the same month.

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

- DD Form 149 (Application for Correction of Military Record)
- Three (3) [REDACTED] Army National Guard ([REDACTED] ARNG) orders

FACTS:

1. The applicant states, in effect:

a. He was moved into a position that he was qualified for on 1 December 2021. He was in excess in his previous unit and was unable to promote. There was a massive delay in processing his UVP (unit vacancy promotion) packet at NGB (National Guard Bureau). Most notably, the implementation of IPPS-A (Integrated Personnel and Pay System – Army) created confusion and chaos at the State and National levels. The traditional UVP process takes approximately 120 days from ARNG-HRP to OSD (Office of the Secretary of Defense). In April 2022, HRP (Human Resources Program) transitioned from IPPSA-CRM back to eTracker to process UVP actions. During this transition, cases were being move to eTracker to process promotion scrolls and promotion orders, which resulted in his case being misplaced and never placed on a promotion scroll.

b. The NGB Federal Recognition process map indicates that promotion packets should be accepted by HRP-R within 10 days and assigned to a scroll within 25 days. None of the delays in processing were due to his own errors, mistakes, or failures. Per USC 10, Section 14308(f), he believes that the instances he has outlined constitute “undue delay” in extending federal recognition. Furthermore, the delays were not “attributable to the action (or inaction)” of himself, but rather others throughout the process.

c. This delay has a profound effect on a commissioned officer's career path and progression timeline. This can cause the officer to be considered "not qualified" to not only attend their next level of professional education, but for key developmental assignments, and competitiveness amongst their peers for next level of commands as well. You can see how this has a ripple effect that will only compound over time.

2. The applicant provides:

a. ■■■ ARNG orders 0001545255.00, dated 2 December 2021, reflects the applicant's permanent change of station (PCS) reassigned him to Field Support Company, 110th INUSA, Annapolis, MD as an Army National Guard (ARNG) – Intra Command Move, with an effective date of 1 December 2021 and an end/termination date of 31 August 2022.

b. ■■■ ARNG orders 0001545255.01, dated 6 February 2022, reflects the applicant's PCS order 0001545255 was amended to reflect an end/termination date of 5 February 2022 for the purpose/reason of a curtailment.

c. ■■■ ARNG orders 0003991209.00, dated 8 February 2023, reflects the applicant was promoted to captain (CPT)/O-3, with an effective date of 23 January 2023.

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

a. Having had prior enlisted service, the applicant executed an oath of office on 14 May 2017 as a second lieutenant Reserve Commissioned Officer.

b. He entered active duty for training from 25 October 2017 to 20 March 2018 and complete the Military Intelligence Basic Officer Leadership Course.

c. He again entered active duty from 21 January 2020 to 23 February 2021.

d. His appointment/promotion dates are as follows:

- Appointed to 2LT, effective 14 May 2017
- Appointed to 1LT, effective 8 September 2021
- Promoted to CPT, effective 23 January 2023

e. On 3 February 2023, the NGB issued the applicant a promotion memorandum reflective of his promotion as a Reserve commissioned officer to the rank of CPT effective 23 January 2023.

f. On 3 February 2023, the NGB published Special Orders 132 extending the applicant Federal recognition to CPT with an effective date and date of rank as 23 January 2023.

g. On 22 September 2023, the NGB published Special Orders 315 amending Special Orders Number 132 to show his effective date and date of rank to CPT as 27 October 2022, vice 23 January 2023.

4. On 18 June 2024, the NGB provided an advisory opinion in the processing of this case. The NGB advisory official recommends disapproval and further states:

a. The Soldier states that he was moved into a position that he was qualified for on 1 December 2021. He also states that he was in excess in his previous unit and was unable to be promoted. He further states that his package in the Federal recognition Process took over 100 days to complete with a state order DOR being 23 January 2023. Per USC 10, Section 14308(f), the Soldier believes that the instances outlined in his case file constitute "undue delay" in extending federal recognition. Furthermore, the delays were not "attributable to the action (or inaction)" of himself but others throughout the process.

b. Upon coordination with the Army National Guard (ARNG) Federal Recognition branch to include a timeline of events (enclosed), NGB should have sent the applicant's packet to DMPM no later than 13 June 2022 (normal processing time at NGB is 60 days). The service member should be credited the difference between 9 September 2022 (actual date sent to DMPM and 13 June 2022 (60 days at NGB mark). This should result in an adjusted Date of Rank of 27 October 2022.

c. Upon a search of the applicant's iPERMS, special orders number 315, dated 22 September 2023 shows the applicant's Effective Date and Date of Rank being amended to reflect 27 October 2022. Upon additional collaboration with the ARNG Federal recognition branch, it was determined that no further adjustments were warranted in regard to the applicant's DOR or effective date. The [REDACTED] Army National Guard did not provide input regarding this opinion.

5. The applicant was notified of the advisory opinion provided by the National Guard Bureau. He was afforded the opportunity to submit comments on the advisory opinion; however, as of the date of this writing, none have been received.

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 applicant's contentions, the military record, and regulatory guidance were carefully considered. The

applicant contends there was undue delay in extending federal recognition for promotion to CPT and he attributes this delay to others. The Board reviewed and agreed with the NGB advisory official's determination that the NGB should have sent the applicant's packet to the Director of Military Personnel Management (DMPM) no later than 13 June 2022 (normal processing time at NGB is 60 days). Thus, the applicant should be credited the difference between 9 September 2022 (actual date sent to DMPM and 13 June 2022 (60 days at NGB mark). This should result in an adjusted Date of Rank of 27 October 2022. Since the applicant has already received orders amending his DOR and effective date of promotion to 27 October 2022, the Board determined no further correction is required.

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.

8/14/2024

X [REDACTED]

CHAIRPERSON

[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 U.S. Code, section 741 (Rank: commissioned officers in the armed forces), states, in pertinent part, the Secretary concerned may adjust the date of rank of an officer appointed under section 624(a) of this title to a higher grade that is not a general officer or flag officer grade if the appointment of that officer to that grade is delayed from the date on which (as determined by the Secretary) it would otherwise have been made by reason of unusual circumstances (as determined by the Secretary) that cause an unintended delay in (i) the processing or approval of the report of the selection board recommending the appointment of that officer to that grade; or (ii) the processing or approval of the promotion list established on the basis of that report.
2. Title 10 U.S. Code, section 14308 (Promotions: how made) provides:
 - a. The effective date of a promotion of a reserve commissioned officer of the Army or the Air Force who is extended Federal recognition in the next higher grade in the Army National Guard or the Air National Guard under section 307 or 310 of title 32 shall be the date on which such Federal recognition in that grade is so extended.
 - b. If the Secretary concerned determines that there was an undue delay in extending Federal recognition in the next higher grade in the Army National Guard or the Air National Guard to a reserve commissioned officer of the Army or the Air Force, and the delay was not attributable to the action (or inaction) of such officer, the effective date of the promotion concerned under paragraph (a) above may be adjusted to a date determined by the Secretary concerned, but not earlier than the effective date of the State promotion.
3. Department of Defense Instruction 1310.01 (Rank and Seniority of Commissioned Officers) provides that The Secretary of the Military Department concerned may adjust the date of rank of an officer, except a general or flag officer, appointed to a higher grade under Title 10 U.S. Code, section 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 date of rank to be adjusted and will notify the Under Secretary of Defense for Personnel and Readiness (USD (P&R)) of adjustments exercised under this authority. The notification will include the name of the officer(s) and a discussion of the reasons for the adjustment of the date of rank.
4. National Guard Regulation 600-100 (Commissioned Officers – Federal Recognition and Related Personnel Actions), in effect at the time, provides procedures for processing all applications for Federal recognition. Paragraph 2-2(b) states 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.

//NOTHING FOLLOWS//