

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 March 2024

DOCKET NUMBER: AR20230003588

APPLICANT REQUESTS: correction of his record to show his effective date and Date of Rank (DOR) for Chief Warrant Officer Four (CW4) as 7 August 2022 vice 3 January 2023.

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

- DD Form 149 (Application for Correction of Military Record)
- Email to Office of Personnel Management (OPM)
- Integrated Personnel and Pay System – Army (IPPS-A) Case
- Federal Recognition (FEDREC) History
- Congressional Inquiry
- Email to the National Guard Bureau (NGB) FEDREC
- Email to State OPM
- Email to State Command Chief Warrant Officer
- FEDREC Packet Status
- Army Board for Correction of Military Records (ABCMR) Docket Number AR20180007923
- Officer Record Brief (ORB)
- Congratulatory email
- Special Orders Number 15
- Applicant email to the NGB
- Memorandum, Subject: Request for ABCMR Determination - Backdate Promotion
- Memorandum, Subject: Approval Recommendation ABCMR
- Memorandum, Subject: [REDACTED] ARNG G-1 ABCMR Recommendation

FACTS:

1. The applicant states:

a. His promotion packet was originally submitted to [REDACTED] Army National Guard (ARNG), Joint Force Headquarters, G 1, Officer Personnel Section on 23 February 2022 and sat there unprocessed until 24 May 2022. It then sat at the FEDREC Section, NGB from 24 May 2022 with no action until it was updated to pending scrolling. It sat over 5 months without even being assigned to a scroll. His packet is currently assigned to Scroll PO 1-23 and remains in a pending publishing status. Attached is the correspondence he has had with his OPM, NGB, and Congressional leader. This is a travesty and is costing National Guard Officers and Warrant Officers untold amounts of money and time, and all for what many leaders would consider egregious negligence.

b. The current National Guard Regulation (NGR) 600-101 (Warrant Officers Federal Recognition and Related Personnel Actions) which governs Warrant Officer Federal Recognition actions, allows a Warrant Officers promotion packet to be submitted 120 days prior to their promotion eligibility date. The intent of this provision was to allow Warrant Officers to be promoted on or very near their promotion eligibility dates. Previously, the FEDREC process only took 90 to 120 days to process through orders publishing and thus, FEDREC promotion orders were processed and dated on the officers respective eligibility date. FEDREC processing has changed many times since 90 to 120 days was the normal processing window and grown to a process window which now exceeds 9 to 12 months and in some cases longer. The cause for this is largely the "suitability screening" portion of the process, and now to further delay actions, the NGB has implemented a "pre-suitability screening" section. Enclosed is a redacted email from an employee in the FEDREC section who stated that Army personnel working in the FEDREC process using their "Use or Lose Leave" was also a contributing factor to the delays. In no other organization or military department would "leave" and other administrative actions be allowed to delay pay and promotions to the level we currently see without ramification and punitive action to those responsible for the problem. It is gross negligence at best, and while this case will only resolve his issue, it is one that should be addressed for everyone who is/has been affected by this.

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

a. On 3 January 2012, Special Orders Number 4 issued by the NGB extended FEDREC for the applicant's initial appointment as a warrant officer in the ARNG.

b. On 27 March 2018, Special Orders Number 70 issued by the NGB extended FEDREC for the applicant's promotion to the rank of Chief Warrant Officer Three (CW3), effective on with a DOR of 16 March 2018. This effective date and DOR was adjusted to 7 August 2017 as promulgated by the decision rendered in ABCMR Docket Number AR20180007923 on 17 June 2020.

c. On 30 June 2020, the Joint Force Headquarters, [REDACTED] ARNG, issued Memorandum, Subject: Notification of Eligibility for Retired Pay for Non-Regular Service which notified the applicant he had completed the required number of years to be eligible for retired pay.

d. DA Form 1059 (Service School Academic Evaluation Report) dated 23 July 2020 shows the applicant completed the Warrant Officer Intermediate Level Education from 16 June 2020 through 23 July 2020.

e. On 14 March 2021, Special Orders Number 65 issued by the NGB adjusted the applicant's effective date and DOR for CW3 to 7 August 2017.

f. On 11 January 2023, Special Orders Number 15 issued by the NGB extended FEDREC for the applicant's promotion to the rank of CW4, effective on with a DOR of 3 January 2023.

3. The applicant provides:

a. Email to OPM wherein the applicant provides his promotion packet stating everything was dated 9 April 2022, and that was his eligibility date. He further states the packet was submitted on 23 February 2022 for initial processing.

b. IPPS-A case wherein the applicant's promotion packet was submitted on 23 February 2022 to OPM and once received it should have gone before the FEDREC board. However, it remained with the State until 18 May 2022.

c. FEDREC history showing the applicant's promotion packet was initiated on 18 May 2022 and was not accepted until 19 September 2022.

d. Congressional inquiry wherein the applicant requested assistance with adjusting his effective date and DOR for promotion to CW4.

e. Email to NGB FEDREC wherein the applicant inquired about him being scrolled for promotion to CW4. The official responded stating it was taking a while to put the scroll together and he had use or lose leave that had to be used prior to 1 October.

f. Email to State OPM wherein the applicant was informed another service members packet was submitted immediately.

g. Email to State Command Chief Warrant Officer from the applicant wherein he inquires pertaining to FEDREC and the scrolling taking several months. In his case specifically, his promotion packet was sent to NGB on 8 April 2022, and he was still not assigned to a scroll as of the date on the email (7 September 2022).

h. FEDREC packet status showing the applicant's packet was awaiting scrolling as of the run date (23 December 2022).

i. ABCMR Docket Number AR20180007923 wherein the Board approved the applicant's DOR for CW3 to be adjusted predicated on an early submission of his promotion packet (120 days prior to his promotion eligibility date and being slotted in a higher graded position).

j. ORB showing his pertinent assignment, promotion, and personnel information.

k. Congratulatory email wherein an OPM official congratulated the applicant on his promotion to CW4 with a DOR of 3 January 2023, but he would amongst those asking for a backdated promotion based on his promotion eligibility date.

l. Applicant's email to the NGB wherein he inquires pertaining to his DOR and should he proceed with another ABCMR request. He was advised to submit his contentions to the Board.

m. Memorandum, Subject: Request for ABCMR Determination - Backdate Promotion, dated 7 November 2022, wherein the applicant reiterates his opening statement to the Board and submitted his request through his Commander, 184th Expeditionary Support Command.

n. Memorandum, Subject: Approval Recommendation ABCMR, dated 18 November 2022, wherein Brigadier General [REDACTED] recommended approval of the applicant's request to adjust his DOR for promotion to CW4. He provides a number of the applicant's achievements as well as the applicant currently overseeing G-1 operations.

o. Memorandum, Subject: [REDACTED] ARNG G-1 ABCMR Recommendation, dated 8 November 2022, wherein Colonel [REDACTED] recommends the Board approve the applicant's request to adjust his DOR for CW4 based on NGR 600-101 allowing for submission of promotion packets 120 days prior to the promotion eligibility date and ongoing IPPS-A issues, suitability screening, and a severe backlog of packets awaiting FEDREC orders leading to a backlog.

4. On 12 January 2024, in the processing of this case the NGB, Chief, Special Actions Branch, provided an advisory opinion stating in pertinent part:

a. The applicant claims that his promotion packet was submitted to the [REDACTED] ARNG G-1, Officer Personnel Section on 23 February 2022, and that his packet sat there unprocessed until 24 May 2022, for total of 3 months. An additional review of

the FEDREC process at the Army NGB, FEDREC office showed that the applicant's promotion packet arrived on 18 May 2022, and was not assigned to a scroll until 5 October 2023, and later approved by the Secretary of Defense (SECDEF) on 3 January 2023.

b. Per NGR 600-101, to be extended FEDREC in the higher-grade Officers must satisfy the requirements prescribed in the regulation and the President of the U.S (POTUS), or SECDEF acting on behalf of the POTUS, must first approve the promotion as a Reserve Warrant Officer of the Army through the scrolling process. The National Guard FEDREC Section identifies the time frame for assignment of a scroll to be approximately two to three weeks and the general processing time for a scroll to be completed as approximately seven to eight months.

c. A review of the applicant's ABCMR claim by the ARNG FEDREC section showed the applicant's promotion packet was received on 18 May 2022, and no action was taken until 12 September 2022, and returned to the [REDACTED] ARNG due to errors in the packet. The packet was quickly returned the following day, and forwarded to post screening on 19 September 2022, and finally assigned to a scroll on 23 September 2022. The scroll was approved and signed by the SECDEF on 3 January 2023.

d. A review of the applicant's ABCMR claim by this office concluded that there were delays at the State and the ARNG FEDREC section. The delays were of no fault of his, however this office cannot confirm the reasons for the delay at the State level, since he stated that his packet was submitted prior to the IPPS-A blackout, which were the reasons for the delay at the ARNG FEDREC section. The recommendation of this office is to backdate his effective date of promotion and DOR to 3 October 2022, due to the delays at the FEDREC section.

e. The opinion of this office was coordinated with the MSARNG and the ARNG FEDREC section.

5. On 18 January 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 partial relief is warranted.

2. The Board concurred with the conclusion of the advisory official that there were delays in processing the applicant's promotion to CW4 that were not his fault. Rather

than the date proposed by the applicant, however, the Board determined the advisory official's recommendation to change his DOR for CW4 to 3 October 2022 is best supported by the evidence.

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 and Army National Guard records of the individual concerned be corrected by showing the effective date of his promotion to CW4 is 3 October 2022. The applicant should receive any additional pay and allowances he is due as a result of this correction.

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 any relief in excess of that described above.

7/23/2024

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. NGR 600-101 (Warrant Officers - Federal Recognition and Related Personnel Actions):

a. Paragraph 2-2 (Federal Recognition) states Federal Recognition is the process that ensures Officers appointed by individual States meet the qualifications required for service in the Federal Armed Forces. Prior to extending federal recognition, the POTUS, or the SECDEF acting on behalf of the POTUS, must first approve the Reserve Warrant Officer of the Army appointment.

b. The promotion of Warrant Officers in the ARNG is a function of the State. As in original appointments, a Warrant Officer promoted by State authority has a State status in which to function in the higher grade. However, to be extended Federal Recognition in the higher grade the officer must satisfy the requirements prescribed herein and the POTUS, or the SECDEF acting on behalf of the POTUS, must first approve the promotion as a Reserve Warrant Officer of the Army. When the State promotion is Federally recognized, the ARNG Warrant Officer is concurrently promoted as a Reserve Warrant Officer of the Army.

c. 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).

d. Table 7-1 shows for promotion from CW3 to CW4 requires 6-years in the lower grade. Table 7-2 states for promotion to CW4 a member must complete the Warrant Officer Intermediate Level Education course. Paragraph 7-2h states, an applicant may be examined for promotion no earlier than 120 days in advance of completing the prescribed time in grade requirements and all other requirements must be met by the time the Federal Recognition board convenes.

2. 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//