

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 17 November 2023

DOCKET NUMBER: AR20230003888

APPLICANT REQUESTS: correction of his service record to reflect his Date of Rank (DOR) for promotion to Chief Warrant Officer 3 (CW3) to reflect 29 June 2009 vice 22 August 2010.

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum, Subject: Promotion as a Reserve Commissioned Warrant Officer of the Army, 13 July 2004
- Orders Number R-05-884340, 8 May 2008
- 63rd Regional Readiness Command Table of Distribution and Allowance (TDA)
- DA Form 67-9 (Officer Evaluation Report (OER)), dated 19 June 2008 to 18 June 2009
- Orders Number R-11-988013, 18 November 2009
- OER, dated 19 June 2009 to 18 June 2010
- Orders Number B-07-004875, 23 July 2010
- OER, dated 19 June 2010 to 18 June 2011
- DD Form 214 (Certificate of Release or Discharge from Active Duty), ending 30 September 2012

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, in pertinent part, according to Army Regulation (AR) 135-155 (Promotion of Commissioned Officers and Warrant Officers Other Than General Officers) paragraph 4-21d, his date of promotion to CW3 should have been the date of release of the Warrant Officer 2009 board results. He was assigned to a higher-grade position at the release of the board results. The U.S. Army Human Resources Command (HRC) was not promoting per this regulation at the time. Instead, provided the officer was boarded and selected for promotion, HRC promoted Active

Guard/Reserve Chief Warrant Officers on their maximum time in grade six year anniversary. This is at no fault of his own, rather a processing error at HRC.

3. A review of the applicant's available service record reflects the following:

a. Having prior enlisted service with the U.S. Army Reserve (USAR) and Regular Army components, on 22 August 2002:

(1) Headquarters, United States Army Aviation Center and Fort Rucker issued a Memorandum for Appointment as a Reserve Warrant Officer of the Army at the rank of Warrant Officer One (WO1).

(2) He accepted appointment as a Reserve Warrant Officer at the rank of WO1 and executed an oath of office.

b. On 13 July 2004, HRC issued a Memorandum for Promotion as a Reserve Commissioned Warrant Officer of the Army promoting him to the rank of Chief Warrant Officer Two (CW2), effective on with a DOR of 21 August 2004.

c. On 1 May 2008, HRC issued a Memorandum for Notification of Eligibility for Retired Pay at Age 60 (Twenty Year Letter).

d. On 8 May 2008, HRC issued Orders Number R-05-884340 assigning him to the 63rd Regional Readiness Command in paragraph 014B, line number 05 with a retroactive report date of 4 August 2008.

e. On 18 November 2009, HRC issued Orders Number R-11-988013 releasing him from the 63rd Regional Readiness Command and reassigning him to the USAR Sustainment Support Command with an effective report date of 30 November 2009.

f. On 23 July 2010, HRC issued Orders Number B-07-004875 promoting him to the rank of CW3, effective on with a DOR of 22 August 2010.

g. On 30 April 2012, HRC issued Orders Number C-04-206246 reassigning him to Fort Irwin with a report date of 23 July 2012 and separation from the United States Army Reserve Active Guard/Reserve, effective 30 September 2012.

h. DD Form 214, ending 30 September 2012 reflects an honorable retirement for sufficient service at the rank of CW3. Item 12 (Record of Service) shows service from 7 July 2002 to 30 September 2012 with a net active service this period of 10 years, 1 month, and 9 days and total prior active service of 10 years and 2 months.

4. The applicant provides the following:

a. 63rd Regional Readiness Command TDA showing he was assigned to the automation data processing technician position which was graded for a chief warrant officer four at the time of his assignment.

b. OER, dated 19 June 2008 to 18 June 2009 reflective of his outstanding performance with the 63rd Regional Readiness Command serving as an Automation Data Processing Technician, MOS 251A.

c. OER, dated 19 June 2009 to 18 June 2010 showing his outstanding performance with the 79th Sustainment Support Command while serving as an Automation Data Processing Technician in the rank of CW2.

d. OER, dated 19 June 2010 to 18 June 2011 showing his outstanding performance with the 79th Sustainment Support Command while serving as an Information Systems Technician in the rank of CW3.

5. On 29 June 2023, the HRC, Chief, Officer Promotions Board Announcements, Support and Promotion Orders, provided an advisory opinion recommending approval of the applicant's request, stating, in effect:

a. Based on a review of the information provided, their records, laws, regulations, policies, and the systems available to HRC Officer Promotions, they find the applicant's request for a change to his DOR does have merit.

b. Pertaining to the documents submitted in his request (UMR partial (no date) information), Assignment Orders (with CW4 position)), and the additional allied documents, there is more than a reasonable chance that he could have been assigned to the higher, CW4 position prior to the approval and release date of the fiscal year 2009 Reserve Component CW3/4/5 PSB results, even so, the earliest effective date he could have been promoted to CW3 will be based on the Boards approval date (unless proven otherwise ineligible).

c. Therefore, in fairness, they recommend that the applicant's DOR and effective date be adjusted to 29 June 2009 (the approval date of the board), and he is granted full relief with backpay and any other associated adjustments of record for entitlements effective 29 June 2009. Understand that the final effective DOR to CW3 will be determined upon receipt of an approved ABCMR directive, under Title 10, USC, section 1552 and additional verification of promotion selection status and verification of the board approval date.

d. Corrections of the DD Forms 214 are not within their purview; therefore, they recommend that he review the information at <https://www.hrc.army.mil/TAGD/Correction> to Veterans Military Records before submitting his request.

6. On 6 July 2023, the applicant was provided with a copy of the advisory opinion to provide a response. As of 21 July 2023, he did not respond.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board determined that relief was warranted. The Board carefully considered the applicant's contentions, the military record, and regulatory guidance. The Board concluded there was sufficient evidence of an error or injustice which warrants adjusting the applicant's effective date of rank (DOR) from 22 August 2010 to 29 June 2009 and granting him full relief with backpay and all associated adjustments of record for entitlements.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected by amending the applicant's date of rank to Chief Warrant Officer Three (CW3) to reflect a new date of rank of 29 June 2009, and that all back pay resulting with the modified date of rank be paid to the applicant.

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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. AR 135-155 (Promotion of Commissioned Officers and Warrant Officers Other Than General Officers), prescribes policy and procedures used for selecting and promoting commissioned officers (other than commissioned warrant officers) of the Army National Guard of the United States (ARNGUS) and of commissioned and warrant officers (WO) of the USAR.

a. Table 2-3 (Warrant officer time in grade and military education requirements) states the minimum time in grade (TIG) for promotion from CW2 to CW3 is 5-years minimum Time in Grade (TIG) with the maximum of 6-years TIG.

b. Paragraph 4-15b (For warrant officers), the effective date is the later of the date of the promotion memorandum or the day following the date the officer completes the TIG requirements, as in paragraph a, above. A USAR WO, who received AUS promotion while on active duty, will be promoted the day after release from AD to a permanent Reserve grade. The grade will be equal to the highest temporary AUS grade satisfactorily held on AD. c. For commissioned officers and warrant officers serving in an AGR status. Officers serving on AD in an AGR status may be promoted to or extended Federal recognition in a higher grade provided the duty assignment/ attachment of the officer requires a higher grade than that currently held by the officer. Effective date of promotion of AGR officers will be as shown in paragraph 4-21. AGR officers who have been selected for promotion and are not assigned/attached to a position calling for a higher grade will receive a delay of promotion without requesting such action. AGR officers will remain on the promotion list and serve on AD in the AGR program until they are:

- Removed from the promotion list
- promoted to the higher grade following assignment/ attachment to an AGR position calling for the higher grade
- promoted to the higher grade, if eligible, following release from AD

c. Paragraph 4-21d (Promotion of AGR officers), AGR officers selected by a mandatory board will be promoted provided they are assigned/attached to a position in the higher grade. An AGR officer who is selected for promotion by a mandatory promotion board, but who is not assigned/attached to a position in the higher grade will be promoted on the date of assignment/attachment to a higher graded position or the

day after release from AGR status. The DOR will be the date the officer attained maximum TIG or the date on which assigned/attached to a position in the higher grade, whichever is earlier.

//NOTHING FOLLOWS//