

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 November 2024

DOCKET NUMBER: AR20230005786

APPLICANT REQUESTS: correction of his date of rank (DOR) for promotion to chief warrant officer four (CW4).

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum Delay of Promotion and Referral to Promotion Review Panel (PRP)
- Memorandum PRP
- Appointment to CW4
- Special Orders Number IP-11722
- Scroll U02-21

FACTS:

1. The applicant states he is requesting his DOR and effective date for his promotion to CW4 be changed from 8 February 2022 and back dated so he can join his fellow warrant officers on the original scroll of warrant officer U02-21. On 18 October 2020, his federal recognition packet was submitted and awaited scroll assignment. On 4 March 2021, his packet was removed from the U02-21 scroll. He was referred to the PRP on 29 June 2021 and he submitted a rebuttal on 13 August 2021. On 13 January 2022, the results of the Federal Recognition Board PRP results retained him on the appointment scroll and recommended appointment to CW4. Subsequently, on 8 February 2022, the Secretary of Defense appointment was signed. His promotion orders were published on 16 May 2022, with an effective date of 8 February 2022. He requests his CW4 effective date and DOR be backdated for him to join his fellow warrant officers that were promoted on the U02-21 scroll. This will make him competitive with fellow warrant officers for other positions and promotions in the Florida Army National Guard (ARNG).

2. The applicant provides the following documents:

a. Memorandum Delay of Promotion and Referral to PRP, 29 June 2021, states in pertinent part, Department of the Army requires screening of all officers recommended for promotion. A screening of ARNG Federal Recognition Warrant Officer List (U02-21)

reveled potentially adverse information on the applicant. The Florida Army National Guard (FLARNG) is responsible to notify the applicant of the referral to a PRP. The PRP will recommend to the Secretary of the Army either the applicant is retained and promoted to the next higher grade, or his promotion is denied to the next higher grade.

b. Memorandum PRP, 13 January 2022, states effective immediately, the applicant was retained on the ARNG Promotion Eligibility to CW4, Federal Recognition Board U02-21 and it was recommended he be appointed to CW4 in the Reserve of the Army.

c. On 8 February 2022, the Secretary of Defense signed a memorandum appointing the applicant to the rank of CW4.

d. Document, which shows the applicant was awaiting assignment to scroll U02-21.

3. The applicant's service record contains the following documents:

a. Orders 043-013, published by the FLARNG, 12 February 2009 appointed him in the rank of warrant officer one in the ARNG. NGB Form 337 (Oaths of Officer) shows he took the oath of office in the Florida ARNG on 18 February 2009.

b. Special Orders IP-11722, published by National Guard Bureau (NGB), 16 May 2022, extended the applicant Federal recognition in the rank of CW4 effective 8 February 2022 with a DOR of 8 February 2022.

4. On 24 February 2024, the Chief, Special Actions Branch, NGB, provided an advisory opinion, which states:

a. The applicant requests that his DOR to CW4 be adjusted. NGB recommended approval of his request. He requests that his DOR and effective date of promotion to CW4 be backdated from 8 February 2022 to 8 February 2021 due to delays caused by a PRP which screens Soldiers for potential adverse information.

b. A review of his claim by the FLARNG supports the statements that his federal recognition packet was submitted and awaiting scroll assignment on 8 October 2020 and was delayed. He was assigned to scroll U02-21 and later removed from the scroll and referred to a PRP that screened him for potential adverse information, on 29 June 2021. Rebuttal documents were submitted on 13 August 2021.

c. On 13 January 2022, the results of the PRP recommended he be retained on the appointment scroll and recommended appointment to CW4. Per National Guard Regulation 600-101 (Warrant Officers Federal Recognition and Related Personnel Actions) to be extended federal recognition in the higher grade officers must satisfy the requirements prescribed in the regulation and the President of the United States

(POTUS), or the Secretary of Defense acting on behalf of the POTUS, must first approve the promotion as a Reserve Warrant Officer of the Army through the scrolling process.

d. National Guard Regulation 600-100 (Commissioned Officers - Federal Recognition and Related Personnel Actions) provides procedures for processing applications for federal recognition. Paragraph 10-15b states that temporary federal recognition may be granted by the federal recognition board to those eligible, when the board finds that the member has successfully passed the examination prescribed herein, has subscribed to the oath of office, and has been appointed by a state order for assignment to a position vacancy in a federally recognized unit of the ARNG. The federal recognition board will forward the NGB Form 89 (Proceedings of a Federal Recognition Examining Board) and allied documents to The Adjutant General (TAG). When the member is favorably recommended, TAG will endorse the packet to the NGB. If the member meets the qualifications and requirements for federal recognition, the Chief, NGB extends permanent federal recognition to the member in the grade and branch in which the member is qualified.

e. Army Regulation 600-8-29 (Officer Promotions), chapter 7 (PRP) states that "an officer or warrant officer retained on the promotion list by the Secretary of the Army shall upon promotion, have the same DOR, the same effective day for pay and allowances in the higher grade to which appointed, and the same position on the active-duty list as he or she would have had if no delay had intervened."

f. A review of his application by NGB concluded he was assigned to scroll U02-21 and was removed from the scroll and referred to a PRP. The PRP later recommended he be retained on the scroll and appointed to the next higher grade of CW4. Army Regulation 600-8-29, chapter 7, section 7-11, supports his request that his DOR be adjusted to 8 February 2021, which is the date that scroll U02-21 was signed. NGB recommends approval of his request. The opinion was coordinated with the Florida ARNG and the ARNG Federal Recognition Section.

5. On 10 May 2024, the advisory opinion was provided to the applicant to allow him the opportunity to respond. He did not respond.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant contends his DOR and effective date of promotion to CW4 should be backdated from 8 February 2022 to 8 February 2021 due to delays caused by a promotion review panel (PRP) which screens the Soldier for potential adverse

information. The evidence shows his federal recognition packet was delayed. He was removed from the scroll and referred to a PRP that screened him for potential adverse information on 29 June 2021. On 13 January 2022 the results of the PRP recommended the applicant's retention on the appointment scroll and his appointment to CW4. The Board agreed with the NGB advisory official's determination that regulatory guidance (AR 600-8-29) supports the applicant's request that his DOR be adjusted to 8 February 2021, which is the date that scroll WO 02-21 was signed. Therefore, the Board determined relief is warranted.

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 the Army and Army National Guard records of the individual concerned be corrected by amending Special Orders IP-11722, published by National Guard Bureau on 16 May 2022, to show the applicant was extended Federal recognition in the rank of CW4 effective 8 February 2021 with a DOR of 8 February 2021.

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[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. Department of Defense Instructions 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.
2. Title 10, USC, section 741 (Rank: commissioned Officers of the Armed Forces) states the Secretary concerned may adjust the DOR of an officer if the appointment of that officer to that grade is delayed from the date on which it would otherwise have been made by reason of unusual circumstances that caused an unintended delay in the processing or approval of the report of the selection board recommending the appointment of that officer to that grade or the processing or approval of the promotion list established on the basis of that report.
3. Title 10, USC, section 14308 (Promotions: how made) states:
 - a. The DOR of an officer appointed to a higher grade under this section may be adjusted in the same manner as an adjustment may be made in the DOR of an officer appointed to a higher grade.
 - b. A Reserve Officer is not entitled to additional pay or allowances if the effective date of the Officer's promotion is adjusted to reflect a date earlier than the actual date of the Officer's promotion.
 - c. The effective date of a promotion of a Reserve Commissioned Officer of the Army who is extended FEDREC in the next higher grade in the ARNG shall be the date on which such FEDREC in that grade is so extended.
 - d. If there is a delay in extending FEDREC in the next higher grade in the ARNG to a Reserve Commissioned Officer of the Army that exceeds 100 days from the date NGB deems such officer's application for FEDREC be completely submitted by the state and ready for review at NGB, and the delay was not attributable to the action or inaction of such Officer: In the event of state promotion with an effective date before 1 January 2024, the effective date of the promotion concerned may be adjusted by the Secretary concerned, but not earlier than the effective date of the state promotion.

//NOTHING FOLLOWS//