

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 September 2024

DOCKET NUMBER: AR20230006498

APPLICANT REQUESTS: in effect:

- Individual Ready Reserve (IRR) final grade determination to show he was discharged as a commissioned officer
- Copies of his discharge documents

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored letter
- NGB Form 89 (Proceedings of a Federal Recognition Examining Board)
- Memorandum subject: Recommendation for Appointment and Officer Candidate School (OCS) Certificate
- Signal Officer Basic Course Certificate
- NGB Form 22 (National Guard Bureau Report of Separation and Record of Service)
- Orders 0-06-024858, 9 June 1987
- DD Form 1966/4 (Section IV Remarks of Enlistment-Reenlistment Document)
- DA Form 3286 (Statement of Enlistment Delayed Entry Program)
- Officer Record Brief (ORB), 15 April 1988
- Letter Order, 29 July 1987
- DARP Form 249 (Chronological Statement of Retirement Points)
- Letter Order, 26 July 1988
- Memorandum subject: Promotion as a Reserve Commissioned Officer of the Army, 5 October 1988
- Memorandum subject: ABCMR Case Pertaining to the applicant, 6 March 1991
- DA Form 2A (Personnel Qualification Record)
- AR20210006744, applicant letter, 8 December 2021
- Letter issued by National Personnel Records Center (NPRC), 4 January 2022

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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 effect, he is requesting an IRR final grade determination to show he was discharged as a commissioned officer and to receive copies of his discharge documents. He further explains there seemed to be some confusion at the time of his enlistment into the delayed entry program (DEP) that could have caused him to vacate his commission, but that the Army Reserve Personnel Center (ARPERCEN) did retain him as an officer in the IRR until 2002. He has not received any documentation discharging him as a commissioned officer. He had previously applied to the ABCMR, however his case was closed without action in December 2021 due to his records being unavailable for the Board to make a decision. The self-authored letter is available in its entirety for the Boards review.
3. The applicant provides:
 - a. NGB Form 89, dated 24 August 1984, shows the applicant was found to have possessed the necessary knowledge, skills, and qualifications for appointment as second lieutenant (2LT)/(O-1).
 - b. In a memorandum subject: Recommendation for Appointment, dated 26 July 1985, the proceedings of the Federal Recognition Board convened for the applicant, were reviewed, and approved. This document also includes his OCS diploma, dated 17 July 1985.
 - c. On 8 November 1985, he successfully completed the Signal Officer Basic Course. His grade at the time was 2LT/(O-1).
 - d. Letter Order, 29 July 1987, shows he was ordered to active duty for training (ADT), for one day during September 1987. His grade at the time was 2LT/(O-1).
 - e. In a memorandum subject: ABCMR Case Pertaining to the applicant, dated 6 March 1991, shows he was advised that the Military Personnel Clerk at ARPERSCOM could not make a determination as to the reinstatement of his of his United States Army Reserve (USAR) commission. This document further explains, he vacated his USAR commission upon his enlistment into the DEP on 4 August 1986 in accordance with Army Regulation (AR) 135-175 (Separation of Officers Army National Guard and Army

Reserve), Chapter 5-2 and AR 601-210 (Regular Army and Army Reserve Enlistment Program), Chapter 5-21s. His grade at the time was staff sergeant (SSG)/E-6.

f. On 15 February 2021, he applied to ABCMR Docket AR20210006744, requesting reinstatement as a commissioned officer. His records were unavailable, so the Board was not able to make a fair, impartial, and equitable determination of facts. Therefore, based on the unavailability of supporting documents, his case was closed without action.

g. In a letter issued by NPRC, dated 4 January 2022, shows his record was charged out to the Army Review Boards Agency (ARBA), to assist in responding to another request and was not yet returned.

5. The applicant's service record reflects the following:

a. The applicant has honorable prior service with the U. S. Navy from 11 July 1975 to 19 June 1984. He completed 7 years, 11 months, and 9 days of active service.

b. NGB Form 22 shows he enlisted in the Delaware Army National Guard (DEARNG) on 20 June 1984 and he was honorably released from the DEARNG, on 25 July 1985. He served for 1 year, 1 month, and 6 days. His grade at the time was SSG/E-6.

c. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows was entered active duty on 5 August 1985, and completed the Signal Officer Basic Course. He was honorably released from active duty on 8 November 1985, and transferred to the control of the DEARNG. He completed 3 months and 5 days of active service. His grade at the time was 2LT/(O-1).

d. NGB Form 61 (Conditional Release), approved by DEARNG, and dated 13 February 1986, shows he understood his contractual obligation to continue serving in the ready reserve. He was to relocate to and be accepted in a reserve component unit prior to 28 April 1986. His grade at the time was 2LT/(O-1).

e. NGB Form 22 shows he was appointed as a Reserve commissioned officer of the DEARNG on 26 July 1985 and was honorably released from DEARNG, on 3 March 1986. He served for 7 months, and 8 days. His grade at the time was 2LT/(O-1). He was transferred to the U.S. Army Reserve Command, Personnel and Administration Center.

f. After a break, the applicant enlisted in the U.S. Army Reserve. His DD Form 4 (Enlistment-Reenlistment Document Armed Forces of the United States) shows he enlisted in the U.S. Army Reserves on 4 August 1986, under the Delayed Entry

Program (DEP) in the rank/grade of specialist (SPC)/(E-4). Allied documents attached to his DD Form 4 show the following entries:

(1) DD Form 1966/4 (Section IV Remarks): in a handwritten entry: I understand by enlisting in the DEP I automatically vacate my Reserve commission.

(2) DA Form 3286: his date of enlistment into the Regular Army (RA) was 28 October 1986.

g. Orders 0-06-02-024858, dated 9 June 1987 show he was reassigned to the U.S. Army Reserve Control Group (Reinforcement), with an effective date of March 1986. His grade at the time was 2LT (O-1).

h. DARP Form 249 (Chronological Statement of Retirement Points), dated 18 September 1987, reflects his grade at the time was 2LT/(O-1).

i. ORB, prepared on 15 April 1988, reflects his grade at the time was 2LT/(O-1).

j. In a memorandum subject: Promotion as a Reserve Commissioned Officer of the Army, shows he was promoted to the grade of first lieutenant (1LT)/(O-2), with an effective date of 25 July 1988.

k. Orders 266-10, reflect the applicant was promoted to SSG/E6 on 15 November 1989.

l. Another DD Form 4, shows he reenlisted on 28 March 1990, in the RA, for four years. His grade at the time was SSG/E-6.

m. DA Form 2A, prepared on 3 January 1992, reflects the following in Section II (Qualification Data):

- Item 1 (Grade): SSG-E6
- Item 16 (Dual Service Grade Code): 2LT (this entry is crossed out and corrected by a handwritten entry: 1LT)
- Item 17 (Dual Service Component Code): USAR

n. DA Forms 2-1 (Personnel Qualification Record), show in items 18 (Appointments and Reductions) the ranks of 2LT and SSG.

o. His DD Form 214 shows he was honorably discharged from active duty on 31 July 1992, in accordance with the fiscal year (FY) 1992, Enlisted Voluntary Early Transition Program. He completed 5 years, 9 months, and 3 days of active service. His grade at the time was SSG/(E-6).

6. On 20 July 2024, the Department of the Army Office Human Resources Command (HRC), Chief, Army Service Center, provided an advisory opinion. They stated that the Army Service Center can only verify the rank based on the supplied documents; no additional documents were located at HRC. Unable to verify if the applicant's rank is incorrect on any of the supplied documents.

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.

a. The evidence shows the applicant served in various components of the Army: He served as an enlisted Soldier in the DEARNG from June 1984 to July 1985. He then completed the Signal Officer Course and served as a commissioned officer, also of the DEARNG from July 1985 to March 1986. After a break, he enlisted in the U.S. Army Reserve (USAR) under the Delayed Entry Program on 4 August 1986, and then in the Regular Army on 28 October 1986. His enlistment documents stipulated that he would vacate his Reserve commission. For unknown reason, a discharge order from his commissioned status was either never published or if it was, it is not filed in his official records.

b. The absence of an order to vacate his commission and discharge him from the USAR as a commissioned officer, led to his promotion to 1LT in July 1988. He was ultimately discharged from active duty as an enlisted Soldier in grade SSG on 31 July 1992 under the FY92 Voluntary Early Transition Program. Since the applicant's discharge order from the USAR as a commissioned officer is not available and since he vacated his commission upon his enlistment in the U.S. Army Reserve on 4 August 1986, it is reasonable to believe he should have been discharged from the USAR the day before, on 3 August 1986.

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 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 records of the individual concerned be corrected by issuing the applicant discharge order from the U.S. Army Reserve effective 3 August 1986.

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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 (Armed Forces), U.S. Code, 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. Army Regulation 15-185 (Army Board for Correction of Military Records), currently in effect, prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.
3. Army Regulation (Dual Component Personnel Management Program), in effect at the time, prescribes policies governing the Army's Dual Component Personnel Management Program. This program allows the Department of the Army to quickly meet mobilization requirements through procurement of trained commissioned and warrant officers from enlisted and warrant officer ranks of the Regular Army. Discusses responsibilities, appointments, and career planning and management of these members who hold dual status in both the RA and the U.S. Army Reserve.
 - a. Promotions. Commissioned officers and warrant officers assigned to the USAR Control Group (Dual Component) are non-unit officers whose promotion in the USAR is governed by AR 135-155. Members normally are considered for promotion in the calendar year before the calendar year in which they are eligible.
 - b. Branch or specialty transfers. Because of duty assignments in the Active Army, dual component members may become better qualified in other than their USAR assigned specialties or basic branches. In such cases, ARPERCEN may involuntarily branch transfer or designate an additional specialty or both. The member also may make a request for a specialty redesignation or branch transfer.
 - c. Accessions to Active Components. Information on USAR status is a vital part of enlistment records. Failure to enter this information properly in item 25 on the DD Form 1966-Series (Application for Enlistment-Armed Forces of the United States) may prevent inclusion of members in the Dual Component Personnel Management Program.
 - d. Grade restoration. During demobilization, members who were mobilized in their USAR grade are authorized to return to their premobilization status. The guideline for computing grade restoration will be the average grade of the member's year group. For example, an enlisted member grade E5 is mobilized in his or her USAR grade of second

lieutenant. At demobilization, if his or her year group contemporaries would have attained the rank of E7, the member would be considered for reenlistment as an E7. RA WOs who are mobilized as USAR commissioned officers will, on demobilization, revert to their RA warrant grade; they will be considered for temporary appointment to the grade equal to their year group peers.

d. Separation. On separation from an RA or AUS status, dual component members normally will transfer or revert to a USAR control group. Transfer activities will ensure that correct action is taken to prevent erroneous discharge of dual component members from their USAR status.

4. Army Regulation 135-175 (Separation of Officers Army National Guard and Army Reserve), in effect at the time, prescribes the policies, criteria, and procedures governing the separation of Reserve officers of the Army. Conditions under which appointment is automatically vacated. The Reserve appointment of any officer is automatically vacated under the conditions outlined below, except where specifically limited to an ARNGUS or USAR officer, commissioned or warrant.

a. An officer automatically vacates his Reserve appointment when he accepts an appointment as a cadet or midshipman' for entrance into the United States Military, Naval, Air Force, or Coast Guard Academy.

b. A commissioned officer vacates his Army Reserve appointment when he:

(1) Accepts a Regular Army appointment in a commissioned grade.

(2) Accepts a promotion to a higher Reserve grade.

(3) Enlists as a Reserve for service in the ARNGUS or USAR.

c. USAR commissioned officer vacates his Reserve appointment when he:

(1) Accepts Federal- recognition as a Reserve of the Army for service in the ARNGUS.

(2) Accepts an appointment as a Reserve of the Army, in the warrant-officer grade, for service in the Army- Reserve.

(3) Retires as a Regular Army enlisted person and is transferred in such enlisted status to the Army Reserve (Retired) (10 USC 3914) (AR 635-200).

(4) Enlists as a Reserve of the Army for service in the ARNGUS or USAR.

5. Army Regulation 601-210 (Regular Army and Army Reserve Enlistment Program), in effect at the time, governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army and the U.S. Army Reserve (USAR). Chapter 5-21 provides the policy on special processing for members of Reserve Armed Forces of the United States.

a. A member of the RC of an Armed Force of the United States, who is in a participating status, will not be processed for enlistment in the RA or USAR without first having been released from the RC. (This policy includes those who are presently in the DEP of another Service.) These RC personnel may not be MEPS processed (neither tested nor given physicals) before obtaining RC conditional release.

b. Enlisted RA members may not hold a Reserve commission or warrant in an Armed Force of the United States other than the Army.

c. A person who holds an RC commission or warrant must resign such commission or warrant on DEP enlistment.

d. The RC member who enlists in the RA or DEP will not take part with the Selected Reserve, TPU for pay, benefits, retirement points, and so forth.

6. Title 10 (Armed Forces), U.S. Code, section 1556 (Ex Parte Communications Prohibited) requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to Army Board for Correction of Military Records applicant's (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//