

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 April 2024

DOCKET NUMBER: AR20230008479

APPLICANT REQUESTS: correction of his chief warrant officer two (CW2) date of rank (DOR) to reflect 14 September 2019 vice 2 October 2019.

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum – Subject: Appointment as a Reserve Warrant Officer of the Army Under Section 12241, Title 10, U.S.C.
- DA Form 71 (Oath of Office – Military Personnel), 1 October 2019
- Orders Number A-06-900782, 4 June 2019, with amendment
- Orders Number B-09-906287, 17 September 2019, with amendment
- Orders Number 4947817, 5 June 2023
- Email Correspondence

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 he was promoted to the rank of CW2 on 14 September 2019 while serving in the U.S. Army Reserve (USAR) and subsequently assessed into the active component on 1 October 2019. He contests that after receiving messages indicating that separation action needed to be initiated due to exceeding the time in grade limitations. After reaching out to the U.S. Army Human Resources Command (AHRC) a CW2 scroll was identified within the USAR but not within the active component. AHRC requested amendment to the CW2 scroll in February 2023. The amended order was issued reflecting a 2 October 2019 DOR.

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

a. After serving in the U.S. Navy, on 24 July 2009 the applicant enlisted in the U.S. Army Reserve (USAR).

b. On 14 September 2017, the applicant was appointed as a commissioned Reserve Warrant Officer at the rank of warrant officer one (WO1).

c. On 29 June 2018, the applicant completed the Judge Advocate Warrant Officer Basic Course. He was subsequently awarded the 270A (Legal Administrator) Military Occupational Specialty.

d. On 4 June 2019, AHRC issued Orders Number A-06-900782 ordering the applicant to active duty on 15 October 2019, at the rank of WO1.

e. On 17 September 2019, AHRC issued Orders Number B-09-906287 announcing the applicant's promotion within the USAR to CW2, effective on with a DOR of 14 September 2019.

f. On 5 June 2023, AHRC issued Orders Number 4947817 announcing the applicant's promotion to CW2, effective 2 October 2019.

4. The applicant provides:

a. Orders Number A-06-900782A01 dated 19 August 2019, reflective of Orders Number A-06-900782 being amended to reflect a change of the additional instructions to indicate his authorized early assessment onto active duty 10-14 days prior to his report date.

b. Orders Number A-06-900782A02 dated 18 September 2019, reflective of Orders Number A-06-900782 being amended to reflect a change of the applicant's rank from "WO1" to now reflect "CW2."

c. Email communications, reflective of communication concerning the applicant's CW2 DOR. The applicant was advised that his active-duty assignment orders were amended to reflect his rank as CW2, however his appointment orders needed to be amended as well. The applicant was redirected to this Board.

5. On 10 January 2024, AHRC, Officer Promotions Board Announcements, Support and Promotion Orders, provided an advisory opinion noting that the applicants request does have merit. The applicant was originally scrolled on 12 May 2023 with a 2 October 2019 DOR based upon the date that he entered upon active duty. The Secretary of Defense (SECDEF) will need to approve an Action Memo directing Officer Promotions Branch to adjust the applicants DOR to reflect 14 September 2019, or the Army Reserve Component would need to submit a Ratification Scroll to the SECDEF for appointment into the Regular Army as a CW2.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board found that relief was warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, the Officer Promotions Branch, U.S. Army Human Resources Command advisory opinion and the relevant statutory and regulatory provisions. The Board considered the applicant's statement, his military service record, documents provided by the applicant, and the review and conclusions of the advising official. Evidence in the record shows the applicant was promoted to chief warrant officer two on 14 September 2019 in the U.S. Army Reserve. He entered active duty on 2 October 2019. The applicant was again scrolled (through active duty) on 12 May 2023 with a 2 October 2019 date of rank, the date the officer entered active duty. The Board concurred with the advisory opinion finding the applicant's request to adjust his date of rank from 2 October 2019 to 14 September 2019 has merit and granted relief.

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 that the evidence presented was 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 amending the applicant's date of rank to 14 September 2019.

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. 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. Army Regulation 600-8-29 (Officer Promotions) provides policies, operating rules, and steps governing promotion of Army commissioned and warrant officers on the active-duty list. This regulation applies to the Regular Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve commissioned and warrant officers on an active-duty list.

a. Paragraph 3-5 (Accepting Promotion) provides that unless an officer declines a promotion in writing under the provisions of this regulation, he or she is considered to have accepted the promotion on the effective date announced in the promotion order. Officers accepting a promotion to any grade other than CW3, CW4, and CW5 do not incur an additional service obligation.

b. Paragraph 2-18 (Inter-Service Transfer) provides that an Active-Duty List (ADL) commissioned or warrant officer who transfers from another uniformed Service will keep the same grade and ADOR that he or she held the day before transferring. A commissioned or warrant officer who transfers from another uniformed Service and was not on the ADL in that service at the time of transfer will have a grade and ADOR established by AHRC.

//NOTHING FOLLOWS//