

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 May 2024

DOCKET NUMBER: AR20230010377

APPLICANT REQUESTS: correction of his Date of Rank (DOR) in the Army National Guard, to the rank/grade of second lieutenant (2LT)/O-1 to reflect 19 March 2021 vice 19 August 2021 with applicable back pay

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

- DD Form 149 (Application for Correction of Military Record)
- Federal Recognition Packet, 19 March 2020
- Email correspondence, 18 November 2020
- Officer Candidate School (OCS) Diploma, 19 March 2021
- Memorandum, Subject: Appointment as a Reserve Commissioned Officer of the Army, 20 March 2021
- DA Form 71 (Oath of Office Military Personnel), 20 March 2021
- Office of Personnel Management (OPM) Packet excerpt, 31 March 2021

FACTS:

1. The applicant states, in pertinent part, his initial date of commission and Federal Recognition (FEDREC) date needs to be corrected March 2021. Currently it shows August of 2021 which has affected not only his promotion to first lieutenant (1LT) and time in grade, but also pay lost while he was on orders to the border on Operation Lone Star (OLS). He completed Federal OCS at Fort Benning in March of 2021 but was never assigned a branch or unit prior to graduation. When he returned to his home state of Texas, he was notified that his packet had been lost/misplaced due to his last name being hyphenated and would need to resubmit a new packet. He was also informed that his dates would be backdated, and it would not affect anything going forward. He received the FEDREC Memorandum in August 2021 and, upon further inspection, realized they did not backdate his date of commission as promised. He reached out through all of his administrative channels and was instructed by the Office of Personnel Management (OPM) to file with the Army Board for Correction of Military Records, as well as file an Inspector General complaint due to his contract and packet for FEDREC not being signed by him with the new dates, but rather his original packet (that was misplaced/lost) with the dates changed on the documents and signature he originally submitted in November of 2020. He has the original email thread of all his documents

and FEDREC packet (completed and signed) with his recruiter Staff Sergeant (SSG) D-, his email thread with the Officer Strength Management (OSM) staff when he was trying to get his branch at the schoolhouse and pdf from OPM of the Personnel Action Tracker with submission dates by OSM.

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

a. On 23 January 2020, he enlisted in the Texas Army National Guard (TXARNG).

b. On 19 March 2021, the U.S. Army Infantry School, Fort Benning, GA, issued the Diploma for completion of OCS.

c. On 20 March 2021, the U.S. Army Installation Management Command, IMCOM Directorate - Training, Headquarters, U.S. Army Garrison Directorate of Human Resources, Fort Benning issued a Memorandum for Appointment as a Reserve Commissioned Officer of the Army in the grade of 2LT. He was appointed as a commissioned officer and executed an oath of office.

d. On 19 August 2021, he was appointed as a Reserve commissioned officer and executed an oath of office. His NGB Form 337 (Oaths of Office) shows he was appointed as a commissioned officer with the TXARNG in the rank/grade of second lieutenant (2LT)/O-1.

e. On 8 September 2021, the TXARNG issued Orders Number 0001378099.00 separating him from the TXARNG to accept a commission with the TXARNG with a retroactive effective date of 18 August 2021.

f. On 9 September 2021, the TXARNG issued Orders Number 0001382136.00 rehiring him in the ARNG in the rank/grade of 2LT/O-1, retroactive to 19 August 2021.

g. DA Form 1059 (Service School Academic Evaluation Report), dated 6 October 2022 shows he attended/completed the Signal Basic Officer Leader Course from 15 June through 6 October 2022.

h. On 10 January 2023, the NGB issued Special Orders Number 11 which extended FEDREC for the applicant's initial appointment to 2LT in the TXARNG with an effective date and date of rank as 19 August 2021.

3. The applicant provides the following:

- Federal Recognition Packet, dated 19 March 2020 showing he completed and submitted his packet timely, prior to the completion of OCS.

- Email correspondence, dated 18 November 2020 showing all documents were submitted for his FEDREC packet to the appropriate personnel.
- OPM Packet excerpt, dated 31 March 2021 showing the processing and updates made to his FEDREC packet from his unit personnel requesting an effective date of 31 March 2021.

4. On 23 February 2024, the NGB, Chief, Special Actions Branch, provided an advisory opinion recommending approval of the applicant's request stating, in effect:

a. He completed federal OCS on 19 March 2021. He states that he was not assigned a branch prior to leaving OCS and upon return to Texas was contacted by OSM and a new packet would need to be submitted for FEDREC as his original packet was misplaced. He states that paperwork dates were altered in the submitted packet without his knowledge to reflect a later date. He submitted his OCS graduation certificate, email exchanges with OSM and snippet of eTracker updates that include dates of submission of packet.

b. After review of the applicant's record and document submission, he did graduate from federal OCS on 19 March 2021. He did submit documentation to complete his FEDREC packet in a timely manner. His packet was not viewed by the FEDREC board and an NGB Form 89 (Proceedings of a Federal Recognition Board) was not signed until 19 August 2021. NGB Form 89 is required to be accessed as a commissioned officer in the National Guard. He was not eligible until 19 August 2021, his current date of rank because of delays of the FEDREC board.

c. After coordination with TXARNG it was determined that of no fault to the applicant that it took five months before the packet was seen by a FEDREC board. This amount of time was longer than most completed packets for FEDREC. The TXARNG supports granting him an adjusted date of rank to 19 March 2021 to correct a delay out of his control. It is the recommendation of this office that the applicant's request be approved. He did not get an approval from a FEDREC board until 19 August 2021 which would complete his packet and make him eligible for accession. The extended amount of time from meeting the requirements to his packet being seen by a FEDREC board was of no fault of the applicant. This advisory opinion was coordinated with NGB FEDREC Branch and the TXARNG

5. On 21 March 2024, the applicant was provided with a copy of the advisory opinion to provide a response. As of 5 April 2024, 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 evidence shows the applicant graduated from OCS on 19 March 2021. He timely submitted the necessary paperwork for Federal recognition. His packet was not viewed by the Federal Recognition Board (FRB) and an NGB Form 89 (Proceedings of FRB) was not signed until 19 August 2021. The NGB Form 89 is required to be accessed as a commissioned officer in the ARNG. He was not eligible until 19 August 2021, his current date of rank because of delays of the FEDREC board. However, it is clear that the delay of several months before his packet was seen by the FEDREC board was not the applicant's fault. As such, the Board agrees with the NGB advisory official's finding that and injustice occurred and that the applicant's DOR and effective date to 2LT should be adjusted to reflect 19 March 2021.

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 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 amending Special Orders Number 11, issued by the NGB on 10 January 2023, to show FEDREC for the applicant's initial appointment to 2LT in the TXARNG with an effective date and date of rank as 19 March 2021.

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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. National Guard Regulation 600-100 (Commissioned Officers Federal Recognition and Related Personnel Actions), in effect at the time, prescribes policies and procedures governing the appointment, assignment, temporary FEDREC, FEDREC, promotion, transfer, branch or specialty transfers, specialties or branch and duty detail, attachment, and separation of commissioned officers of the ARNG.

a. Paragraph 2-2 states the appointment of officers in the ARNG is a function of the State concerned, as distinguished from the federal recognition of such appointment. Upon appointment in the ARNG of a State, and subscribing to an oath of office, an individual has a State and temporary federal status under which to function. Such individuals acquire a permanent federal status when they are federally recognized and appointed as a Reserve of the Army.

b. Paragraph 3-1 states the following documents are required to be submitted to initiate appointment and FEDREC:

- NGB Form 89
- NGB Form 337/DA Form 71
- OCS completion

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//