

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 June 2024

DOCKET NUMBER: AR20230010879

APPLICANT REQUESTS: in effect, correction of his lieutenant colonel (LTC)/O-5 date of rank (DOR) to 9 July 2019 instead of 1 October 2022.

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

- DD Form 149 (Application for Correction of Military Record)
- Orders Number 179-508, 28 June 2019
- [REDACTED] National Guard Memorandum - Subject: Selections from the FY-22 [Fiscal Year 2022] Officer Career Management Board (OCMB) Order of Merit List (OML), 1 October 2022
- Orders: HR-2285-00016, 12 October 2022
- National Guard Bureau (NGB) Memorandum - Subject: Promotion as a Reserve Commissioned Officer of the Army, 22 December 2022

FACTS:

1. The applicant states:

a. According to National Guard Regulation (NGR) 600-100 (Commissioned Officers - Federal Recognition (FEDREC) and Related Personnel Actions) his DOR is incorrect. It is currently 1 October 2022 but should be 9 July 2019.

b. He was Title 32 Active Guard/Reserve (AGR) at the time of his promotion and according to regulation, his DOR should be backdated to his Department of the Army (DA) eligibility. Timeline below with excerpts from supporting regulation. DA Select for promotion to LTC (AGR) on 9 July 2019. Assigned as "GRP" S3 (O-5 Position) on 28 June 2019 OCMB Selection for Promotion (AGR) on 1 October 2022. Resignation from AGR on 18 October 2022 (please see attached email from LTC [REDACTED]) Title 10 COADOS (Contingency Operation for Active Duty Operational Support) orders on 19 October 2022.

c. In reading through NGR 600-100, he found the following. Effective Date and DOR Determinations: DA Select M-Day Commissioned Officers. Effective Date and DOR will be the DA Board approval (LTCs and below) or Senate confirmation date (colonels

(COLs) only) if the officer was assigned to a position in the next higher grade. If the officer was not assigned to a position in the next higher grade, the Effective Date and DOR will be the date of assignment to the next higher-grade position. If a DA Select M-Day officer requests a voluntary delay, the Effective Date and DOR will be established after the delay when FEDREC is extended after the officer is assigned to a position in the next higher grade. He was assigned to the position of next higher grade at the time of his DA selection. DA Select AGR Commissioned Officers promoted upon DA Selection. If an AGR Officer is recommended for promotion by a DA Board to the grade of LTC or below, is already assigned to the next higher-grade position on the day the board report is approved, and an AGR controlled grade is available, the officer's Effective Date and DOR will be the date the board report is approved by the Secretary of Defense (SECDEF). The Effective Date and DOR of an Officer in a COL position who is promoted to the rank of COL is the date of Senate confirmation. DA Select AGR Commissioned Officers who are involuntarily delayed due to lack of controlled grade (Title 10 United States Code section 14311). If a DA Select AGR Officer is involuntarily delayed and not assigned to the next higher-grade position, the DOR will be the date the Officer is subsequently assigned to the position of higher grade or the maximum Time in Grade per Army Regulation (AR) 135-155 (Promotion of Commissioned Officers and Warrant Officers), Table 2-1, whichever is earlier.

d. The Effective Date will be the date the controlled grade authorization is available per ARNG (Army National Guard)-HRA. Backdated Effective Dates due to AGR controlled grade limitations in previous Fiscal Years (FYs) are not authorized. He was assigned to the position of next higher grade at the time of his DA selection.

2. A review of the applicant's official records shows the following:

a. Having prior enlisted service in the Louisiana Army National Guard (■ARNG), an NGB Form 337 (Oaths of Office) shows he was appointed as a second lieutenant (2LT) in the ■ARNG and executed his oath of office on 6 October 1999.

b. On 2 July 2013, Joint Force Headquarters Alabama National Guard published Orders Number 183-579, which promoted the applicant to the rank/grade of major (MAJ)/O-4, effective on with a DOR of 1 June 2013.

c. On 9 July 2013, the NGB published Special Orders Number 166 AR, which announced extension of FEDREC in the ARNG for the applicant's promotion to the rank/grade of MAJ/O-4, effective 1 June 2013, with a promotion eligibility date/DOR of 29 June 2012.

d. On 17 December 2017, DA Form 1059 (Service School Academic Evaluation Report) shows the applicant achieved course standards and completed the Command and General Staff Officer Course.

e. On 17 August 2018, Joint Forces Headquarters [REDACTED] National Guard published Orders Number 229-274, which ordered the applicant to Full-Time National Guard duty in an AGR status for an indefinite period to continue his AGR tour to serve as S3, with a report date of 11 August 2018. The orders show his rank as MAJ, and "MTOE/TDA Pos: S3, O-5, 18A00."

f. On 23 July 2020, [REDACTED] Army National Guard published Orders Number 0000529953.00, which assigned the applicant as a commander in a Title 32 AGR position, effective 23 July 2020.

g. On 22 December 2020, [REDACTED] Army National Guard published Orders Number 0000898195.00, which assigned the applicant as the Assistant S-3 in a Title 32 AGR position, effective 8 October 2020.

h. On 4 October 2022, the Alabama ARNG published Orders Number 0002074536.00, which assigned the applicant to "ARNG Staff Element, Joint FORCUSA", [REDACTED] with an effective/report date of 1 October 2022. The orders show his Duty Position Title as "EEO/EO Manager."

i. On 12 October 2022, the U.S. Army Human Resources Command published Orders: HR-2285-00016, which ordered the applicant to CO-ADOS in support of Operation Enduring Freedom-Conus Station Base for 365 days with a report date to Fort Bragg on 19 October 2022. His duty would be performed in [REDACTED]

j. On 22 December 2022, the NGB published Special Orders Number 175 AR, which announced extension of FEDREC in the ARNG for the applicant's promotion to the rank/grade of LTC/O-5, effective on with a DOR of 1 October 2022.

k. On 26 January 2023, [REDACTED] ARNG published Orders Number 0003927378.00, which promoted the applicant to the rank/grade of LTC/O-5, effective 1 October 2022. The orders show his position title as "EEO/EO Manager."

3. In support of his case the applicant provides:

a. Orders Number 179-508 dated 28 June 2019, published by Joint Force Headquarters [REDACTED] National Guard, which released the applicant from his Company Commander position and transferred him to an S3 position, effective 23 June 2019.

b. [REDACTED] National Guard Memorandum - Subject: Selections from the FY-22 OCMB OML, dated 1 October 2022, which shows he was selected for promotion to LTC based on the needs of the organization, position vacancy and from their position on FY-22 OML which was produced by the State OCMB.

c. NGB Memorandum - Subject: Promotion as a Reserve Commissioned Officer of the Army, dated 22 December 2022, which notified the Adjutant General of the State of Alabama and the applicant that he was promoted to LTC/O-5 in the Reserve of the Army for service in the Army National Guard of the United States, effective 1 October 2022.

4. On 12 June 2024, the Chief, Special Actions Branch, NGB, provided an advisory opinion for this case and recommended disapproval. The advisory official stated:

a. The applicant states that he was promoted to LTC on 1 October 2022. The applicant requests to backdate his date of promotion because there were AGR control grade limitations, and he had been recommended for promotion on 9 July 2019.

b. The applicant was serving in an O-5/LTC AGR Officer position when he was DA Selected on 13 June 2019. However, at this time he was not eligible for promotion since he had not been State selected. The applicant's IPPSA (Integrated Personnel and Pay System - Army) assignment history shows that he held an O-5 slot during the period of 15 December 2017 to 22 July 2020. His following two positions held were of O-4 grade from the time periods of 23 July 2020 to 7 October 2020 and 8 October 2020 to 31 December 2021, respectively. The applicant's following assignment was in a non-promotable position (99 Enhanced Readiness) from the time of 1 January 2022 to 30 September 2022. During all forementioned time periods, the applicant was not eligible for promotion since he had not been State selected. The applicant was State selected for promotion to O-5/LTC and reassigned to an O-5 position (ARNG Title 10 ADOS), effective 1 October 2022.

c. According to NGR 600-100 paragraph 8-3, a commissioned officer who has been promoted by the State and extended FEDREC in the higher grade will be concurrently promoted to the higher grade in the Reserves of the Army with assignment to the ARNG. Paragraph 8-3(b) states that Department of the Army (DA) Select M-Day Commissioned officers. Grade entry date and DOR will be the DA Board approval (LTCs and below) or Senate confirmation date (COLs only) if the officer was assigned to a position in the next higher grade. If the officer was not assigned to a position in the next higher grade, the grade entry date and DOR will be the date of assignment to the next higher-grade position. If a DA Select M-Day officer requests a voluntary delay, the grade entry date and DOR will be established after the delay when FEDREC is extended after the officer is assigned to a position in the next higher grade. If an AGR officer is recommended for promotion by a DA Board to the grade of LTC or below, is already assigned to the next higher-grade position on the day the board report is approved, and an AGR controlled grade is available, the officer's grade entry date and DOR will be the date the board report is approved by the SECDEF. If a DA Select AGR Officer is involuntarily delayed and not assigned to the next higher-grade position, the

DOR will be the date the officer is subsequently assigned to the position of higher grade or the Maximum Time in Grade per AR 135-155, Table 2-1, whichever is earlier.

d. Based on these reasons, it is the recommendation of this office that the applicant's request be disapproved. He was DA Selected and O-5 slotted in 2019, however, he was not State selected until 2022. State selection is a requirement for promotion. Furthermore, after his DA Selection, he was in O-4/MAJ slots. The applicant's AGR assignment ended 18 October 2022. ARNG Title 10 ADOS began on 19 October 2022. His promotion packet was received and uploaded on 27 October 2022. By the time his promotion packet was received, he was not in AGR. He was an M-Day Soldier on a Title 10 ADOS order. Whether he was M-Day or AGR, his DOR and grade entry date would be what it currently is based on NGR 600-100.

e. The Army National Guard Federal Recognition Branch and Alabama Army National Guard concur with this recommendation.

5. On 17 June 2024, the applicant was provided a copy of the NGB advisory opinion to allow for comments and/or rebuttal.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted.
2. The Board concurred with the conclusion of the advisory official that the applicant was not eligible for promotion as an ARNG officer until he had been selected by the State. This did not occur until October 2022, and therefore he was promoted in the ARNG effective 1 October 2022. The Board determined there is no error or injustice related to his DOR for LTC.

#### BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

12/19/2024

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. Army Regulation 15–185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. In pertinent part, it states that 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. The ABCMR will decide cases based on the evidence of record. It is not an investigative agency.

2. NGR 600-100 (Commissioned Officers Federal Recognition and Related Personnel Actions) prescribes policies and procedures governing the appointment, assignment, temporary Federal Recognition, Federal Recognition, reassignment, transfers between States, branch transfers, area of concentration designation, utilization, branch detail, and attachment of commissioned officers of the Army National Guard (ARNG).

a. Paragraph 8-3 (Promotion as a Reserve Commissioned Officer of the Army) provides that a commissioned officer who has been promoted by the State and extended Federal Recognition in the higher grade will be concurrently promoted to the higher grade in the Reserves of the Army with assignment to the ARNG.

b. Paragraph 8-3(b) states, in pertinent part, Department of the Army (DA) Select M-Day Commissioned officers. Grade entry date and DOR will be the DA Board approval (LTCs and below) or Senate confirmation date (COLs only) if the officer was assigned to a position in the next higher grade. If the officer was not assigned to a position in the next higher grade, the Grade entry date and DOR will be the date of assignment to the next higher-grade position. If a DA Select M-Day officer requests a voluntary delay, the

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3. 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.

//NOTHING FOLLOWS//