

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 June 2024

DOCKET NUMBER: AR20230010911

APPLICANT REQUESTS: correction to his date of rank (DOR) to the rank/grade of major (MAJ)/O-4 to reflect 14 December 2022 vice 14 July 2023 with applicable back pay.

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

- DD Form 149 (Application for Correction of Military Record)
- Promotion Packet to MAJ to include the following documents:
  - Memorandum, Subject: Recommendation for Promotion
  - Memorandum, Subject: Promotion Recommendation
  - DA Form 5500 (Body Fat Content Worksheet), 3 October 2022
  - DA Form 705 (Army Combat Fitness Test Scorecard), 8 November 2022
  - DA Form 1059 (Service School Academic Evaluation Report), 14 December 2018
  - Officer Record Brief (ORB), 9 August 2023
- Missouri Army National Guard (MOARNG) Email Correspondence, 11 April 2023 and 19 June 2023
- National Guard Bureau (NGB) Email Correspondence, 23 June 2023 and 18 July 2023
- MOARNG Orders Number 0005624214.00, 8 August 2023
- Promotion Timeline Breakdown
- National Guard Regulation (NGR) 600-100 (Commissioned Officers Federal Recognition and Related Personnel Actions), effective 22 November 2022

FACTS:

1. The applicant states he contacted both the State and NGB to address his promotion and both alluded to a policy change due to the Integrated Personnel and Pay System-Army that neither could provide in writing justifying not setting the DOR to 14 December 2022. He then provided them both a copy of NGR 600-100 and the excerpt about Title 10 Active Guard/Reserve (AGR) Officer promotions and they stopped responding. His DOR determination is specifically addressed in NGR 600-100, published on 22 November 2022, which is clear on how that is set for officer promotions in the

National Guard as well as the process being State Orders being generated prior to Federal Recognition (FEDREC). According to this regulation in Section IV: Promotion of Army National Guard (ARNG) officers serving on Title 10 AGR tours, paragraph 8-23. Procedures, sub-paragraph a. states: Upon selection for assignment and promotion to a position requiring a higher grade, the ARNG, Human Capital Management Division (ARNG-HCM) will forward correspondence inviting the State [Missouri] to promote the officer to the next higher grade effective on a specific date [14 December 2022]. If acceptable, the State [Missouri] will issue orders promoting the officer citing this regulation. The State [Missouri] will then forward a request for FEDREC of the officer to ARNG Personnel Division. He feels robbed of his time in grade to the next promotion and entitled earnings he has not received over a period of approximately 8 months.

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

a. Having prior enlisted service with the Georgia Army National Guard (GAARNG), on 10 May 2012:

(1) Headquarters, United States Army Maneuver Center of Excellence issued a Memorandum for Appointment as a Reserve Commissioned Officer of the Army in the rank/grade of second lieutenant (2LT)/O-1.

(2) He was appointed as a Reserve commissioned officer and executed an oath of office.

(3) NGB Form 337 (Oaths of Office) shows he accepted a commission with the GAARNG and executed an oath of office.

b. On 3 August 2023:

(1) The NGB issued Special Orders Number 249 AR extending FEDREC and retroactively promoting him to the rank/grade of MAJ/O-4, effective on with a DOR of 14 July 2023.

(2) The NGB issued a Memorandum, Subject: Promotion as a Reserve Commissioned Officer of the Army, promoting him to the rank/grade of MAJ with a retroactive effective date of 14 July 2023.

c. He continues service with the MOARNG.

3. The applicant provides:

a. Promotion Packet to MAJ to include the following documents:

(1) Memorandum, Subject: Recommendation for Promotion - COL D- C-, dated 9 January 2023 wherein the NGB, Chief, Human Capital Management Division recommended the applicant for promotion to the rank/grade of MAJ/O-4 under the provisions of Title 10, United States Code (USC), AGR officer.

(2) Memorandum, Subject: Promotion Recommendation - MAJ K- R-, dated 9 January 2023 wherein the NGB, Chief, Officer Management Branch, recommended him for promotion to the rank/grade of MAJ/O-4 based off Title 10, USC, ARNG Promotion Recommendation Review with an effective date of promotion of 14 December 2022 based on being assigned to a higher graded position.

(3) DA Form 5500 dated 3 October 2022 showing he was in compliance with Army Body Composition standards.

(4) DA Form 705 dated 8 November 2022 as supporting evidence of his compliance with fitness standards.

(5) DA Form 1059 dated 14 December 2018 showing he achieved course standards for the Reserve Engineer Captains Career Course from 30 November 2018 to 14 December 2018.

(6) ORB dated 9 August 2023 showing his rank as MAJ with an effective date of 14 July 2023.

b. MOARNG Email correspondence, dated 11 April 2023 wherein the S1 officer notified him that promotions are not backdated and that the date of promotion is the date the NGB publishes the FEDREC.

c. MOARNG Email Correspondence, dated 19 June 2023 showing he was advised of the process of generating orders for promotion.

d. NGB Email Correspondence, dated 23 June 2023 showing communications regarding the process by which the NGB generates the FEDREC orders.

e. NGB Email correspondence, dated 18 July 2023 wherein he was notified that the state submitted his recommendation for promotion on 13 April 2023 and to contact the Army Board for Correction of Military Records if the promotion took longer than 100 days to take effect.

f. MOARNG Orders Number 0005624214.00, dated 8 August 2023 wherein he was promoted to the rank/grade of MAJ/O-4 with a retroactive effective date of 14 July 2023.

g. Promotion Timeline Breakdown wherein he provides a dated breakdown of the

time in which he was selected for the Team Leader position (O-4 position on 18 April 2021 and meeting Time in Grade (TIG) and Time in Service (TIS) on 17 April 2022)) and the time in which his packet was processed, and he was promoted to MAJ.

h. NGR 600-100, effective 22 November 2022 as the supporting regulation for promotion of National Guard Officers.

4. On 26 March 2024, the NGB, Chief, Special Actions Branch, provided an advisory opinion recommending approval of the applicant's request, stating in effect:

a. The applicant states that per NGR 600-100 his DOR to MAJ should be 14 December 2022 vice 14 July 2023. He is a Title 10, USC, AGR serving at the NGB being administratively tracked by the MOARNG. He submitted NGR 600-100, email correspondence with the MOARNG, promotion packet and a detailed timeline of promotion for review.

b. After review of his records and coordination with NGB's FEDREC branch, he met eligibility requirements for promotion to MAJ on 14 December 2022. It was recommended to the MOARNG via email that a packet be submitted for promotion on 9 January 2023 including a memorandum from Human Capital Management Branch stating authorization is available for an effective DOR of 14 December 2012 [sic]. The state completed the promotion packet, and it was seen before a FEDREC board on 12 April 2023 and sent to NGB for the scrolling process. The order was published with a DOR of 14 July 2023.

c. Per NGR 600-100 section IV paragraph 8-23a Title 10, USC, AGR officer selected for assignment and promotion to a position requiring a higher grade the ARNG Human Capital Management Division will forward correspondence to the state to promote the officer to the next higher grade effective on a specified date. In this case the date specified was 14 December 2022 and the promotion order incorrectly published an effective DOR of 14 July 2023.

d. It is the recommendation of this office that the applicant's request be approved. In accordance with NGR 600-100 section IV and the memorandum from NGB's Human Capital Management Branch dated 9 January 2023. His effective DOR to MAJ should be adjusted to 14 December 2022.

5. On 27 March 2024, the applicant was provided with a copy of the advisory opinion and provided an opportunity to respond.

6. On 29 March 2024, he provided a rebuttal to the advisory opinion stating, in effect, he agrees with the NGB's recommendation and requests the ABCMR to fully adopt the

opinion for the DOR to reflect 14 December 2022 with applicable backpay and that this action be completed no later than 31 May 2024.

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 Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. The Board reviewed and concurred with the National Guard Bureau's (NGB) advisory finding that the applicant met eligibility requirements for promotion to major (MAJ)/O-4 on 14 December 2022. The State Army National Guard recommended a packet be submitted for promotion on 9 January 2023. The packet was completed and federally recognized on 12 April 2023 and forwarded to the NGB for the scrolling process. The order was published with a date of rank of 14 July 2023.

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 records and Army National Guard records of the individual concerned be corrected by issuing the applicant a Special Order extending him Federal recognition for promotion to MAJ with an effective date and date or rank as 14 December 2022, with entitlement to back pay and allowances (if applicable) as a result of this correction.

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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. NGR 600-100 (Commissioned Officers Federal Recognition and Related Personnel Actions), dated 22 November 2022, 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. Section IV paragraph 8-23a states, upon selection for assignment and promotion to a position requiring a higher grade, the ARNG, Human Capital Management Division will forward correspondence inviting the State to promote the officer to the next higher grade effective on a specific date. If acceptable, the State will issue orders promoting the officer citing this regulation. The State will then forward a request for FEDREC of the officer to ARNG Personnel Division (ARNG-HRP), in accordance with such procedures as ARNG-HRP prescribes.
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//