

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 June 2024

DOCKET NUMBER: AR20230011992

APPLICANT REQUESTS:

- reconsideration for promotion to the rank/grade of captain (CPT)/O-3 by a Promotion Review Board (PRB)/Special Selection Board (SSB)
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Orders Number 5215426, 29 June 2023
- Headquarters, U.S. Army Reserve Command letter, 6 July 2023
- Email communication

FACTS:

1. The applicant states in pertinent part that during the CPT Promotion Selection Board (PSB), he was deemed educationally unqualified due to his college transcripts not being included in his Army Military Human Resource Record (AMHRR) on the Interactive Personnel Electronic Records Management System (IPERMS). He contests that there was a document identified as transcripts which upon review was simply a letter of degree completion provided by his Reserve Officers' Training Corps, Professor of Military Science. He notes that this caused confusion until after he was passed over for promotion a second time. This was later corrected but communication attempts to the U.S. Army Human Resources Command (AHRC) over the next year went unresponsive. He requested the assistance of his state representative. Subsequently, he received separation orders.

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

a. On 2 May 2014, the applicant was appointed as a Reserve commissioned officer at the rank/grade of second lieutenant (2LT)/O-1.

b. On or about 3 May 2014, the applicant was awarded a Bachelor of Arts degree in Political Science from the University of South Florida.

- c. On 21 May 2015, the applicant completed the Military Police Basic Officer Leadership Course.
- d. On 14 October 2015, the applicant was awarded the 31A (Military Police) Area of Concentration.
- e. On 2 December 2015, AHRC issued Orders Number B-12-506004 announcing the applicant's promotion to the rank/grade of first lieutenant (1LT)/O-2, effective On with a date of rank of 27 November 2015.
- f. On 29 June 2023, AHRC issued Orders Number 5215426 involuntarily discharging the applicant from the USAR, effective 14 July 2023, due to his non-selection for promotion (Separation Program Designator Code "JGB").

3. The applicant provides the following a:

- a. Headquarters, USARC letter dated 6 July 2023, reflective the Deputy Chief of Staff, G-1 advising that on 9 September 2019, the Fiscal Year (FY) 2019 CPT Promotion Board reviewed the applicant's record and deemed him educationally unqualified. On 28 September 2020, the FY20 CPT Promotion Board reviewed the applicant's record and deemed him educationally unqualified. This was the applicant's second non-select for promotion. After review of the applicant's promotion record the USARC, Command G-1 staff determined that an administrative error resulted in a failure to produce the applicant's discharge orders upon completion of his Military Service Obligation (1 May 2022). Thus, the USARC, Command G-1 staff produced his discharge order on 29 June 2023, with an effective date of 14 July 2023.
- b. Email communication reflective of the applicant being advised of the outcome of the congressional inquiry. He was advised that AHRC was unable to overturn the promotion board's decision and therefore he would need to seek redress through the Army Review Boards Agency.

BOARD DISCUSSION:

- 1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military record, the Board determined there is insufficient evidence to support the applicant's contentions for promotion to the rank/grade of captain (CPT)/O-3 by a Promotion Review Board (PRB)/Special Selection Board (SSB). The Board noted that the applicant provided an unofficial transcript; however, the record is absent an official transcript as verification for

his degree completion from University of Florida as required for promotion to the grade of CPT. Furthermore, the Board noted that it is the servicemember's responsibility to ensure their record is correct and found the provided materials contained insufficient evidence to corroborate the applicant's claims of error or that he attempted to correct his record in a timely manner. There is also no evidence that the applicant attempted to notify the promotion selection board of the deficiency as required by Army Regulation 600-8-29 paragraph 6-3b. As such, the Board found no material fairness existed and denied relief.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

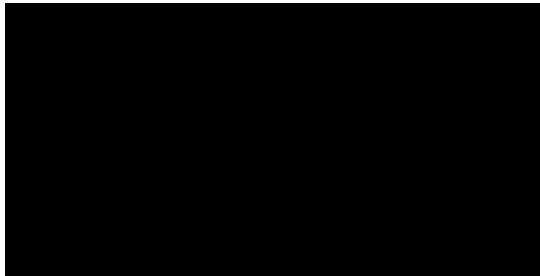
: : : GRANT PARTIAL RELIEF

: : : 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.



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 (AR) 600-8-29 (Officer Promotions) prescribes policies, operating rules, and steps governing promotion of Army commissioned and warrant officers on the Active-Duty List (ADL). Chapter 6 (SSB) provides that SSBs may be convened under Title 10, United States Code (USC), section 628 (SSB) to consider, or reconsider commissioned or warrant officers for promotion when Headquarters Department of the Army (HQDA) determines that one or more of the following circumstances exist:

a. Administrative error (Title 10, USC, section 628(a)(1)) (SSB required) - an officer was not considered from in or above the promotion zone by a regularly scheduled board because of administrative error.

b. Material unfairness (Title 10, USC, section 628(b)(1)) (HRC discretionary).

An officer will not be considered or reconsidered for promotion by an SSB when the following occurs:

a. The officer is pending removal from a promotion or recommended list and the removal action was not finalized by the SECARMY before the next selection board convened to consider officers of his or her grade.

b. An administrative error was immaterial, or the officer, in exercising reasonable diligence, could have discovered and corrected the error in the DA Form 4037 or AMHRR. The DA Form 4037 is a summary document of information generally available elsewhere in the officer's record. It is the officer's responsibility to review his or her DA Form 4037, AMHRR, and MBF before the board convenes and to notify the board, in writing, of possible administrative deficiencies.

c. Letters of appreciation, commendation, or other commendatory data for awards below the Silver Star are missing from the officer's AMHRR.

d. The PSB did not see a nonmandatory DA Form 4037 submitted to HRC after the suspense established in the promotion board zone of consideration MILPER message.

e. The PSB did not see a DA official photograph or saw an outdated DA official photograph.

f. The PSB did not consider correspondence to the board president that was delivered to the Commanding General, U.S. Army Human Resources Command after the cutoff date for such correspondence established in the respective promotion board zone of consideration MILPER message.

g. The consideration in question involved an officer below the promotion zone.

2. AR 135-155 (Promotion of Commissioned Officers and Warrant Officers) provides policy for selecting and promoting commissioned officers of both the Army National Guard of the United States (ARNGUS) and the U.S. Army Reserve (USAR), and warrant officers of the USAR. Paragraph 2-10 (Civilian Education) provides that no person may be selected for promotion to the reserve grade of CPT or above unless, no later than the day before the selection board convene date, that person is awarded a baccalaureate degree from an accredited institution.

a. Section II (Selection Board Procedures) provides that promotion advisory board/special selection boards will be convened to reconsider officers who were either improperly omitted from consideration due to administrative error, or who were non-selected for mandatory promotion as a result of material error. Special selection boards are conducted as an additional duty of regularly scheduled mandatory Reserve of the Army selection boards for the same competitive category.

b. Section III (Promotion Reconsideration Boards) provides that Officers and warrant officers who have either failed of selection for promotion, or who were erroneously not considered for promotion through administrative error may be reconsidered for promotion by either a promotion advisory board or a special selection board, as appropriate. These boards are convened to correct/prevent an injustice to an officer or former officer who was eligible for promotion but whose records:

- through error, were not submitted to a mandatory promotion selection board for consideration
- contained a material error when reviewed by the mandatory selection board

c. The AHRC, Office of Promotions will normally not determine that a material error existed if the administrative error was immaterial, or, the officer in exercising reasonable diligence, could have discovered and corrected the error or omission in the OMPF.

d. The AHRC, Office of Promotions may find that a material error caused the nonselection of an officer by a promotion board. That agency must first determine that there is a fair risk that one or more of the following circumstances was responsible to include:

- an adverse document, required to be removed from an officer's OMPF as of the convening date of the board, was seen by the board
- the record erroneously reflected that an officer was ineligible for selection for educational or other reasons

e. Section V (Nonselection for Promotion) provides that an officer who twice fails to be selected for promotion to the grade of CPT, MAJ, or LTC will be removed from active

status (see paragraph 4-33) unless subsequently placed on a promotion list, selected for continuation, or retained under any other provision of law.

3. AR 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. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//