

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 August 2024

DOCKET NUMBER: AR20230013975

APPLICANT REQUESTS: in effect,

- Adjust his placement on the Active Duty List
- Adjust his Date of Rank (DOR) to the rank/grade of captain (CPT)/O-3
- Special Selection Board (SSB) for the rank/grade of major (MAJ)/O-4
- Personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored statement
- DA Form 1506 (Statement of Service)
- Email to U.S. Army Human Resources Command (AHRC) Adjudication DOR Section
- Email to AHRC Chief of Promotions
- Army Regulation (AR) 135-155 (Promotion of Commissioned Officers and Warrant Officers) effective 13 December 2022
- AR 600-8-29 (Officer Promotions) effective 9 September 2020

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 in part, he requests the adjustment of his placement on the active duty list, adjustment of his DOR and effective date for the rank/grade to CPT/O-3 and sent to a SSB for the rank/grade of MAJ/O-4 due to the incorrect calculation of his active service tenure and the placement on the active duty list when he entered active duty in the Regular Army (RA). He was only credited for 1-year of active service prior to his appointment in the RA in 2017 though he performed active duty service in the Reserve component for most of the time since his commissioning in the Reserve component in 2013. Due to the miscalculation of this time, he was erroneously placed in

Year Group 2016 versus Year Group 2013 and therefore was not considered for promotion to the rank/grade of CPT/O-3 in FY17 and FY18. The regulation clearly states an Army competitive category officer who received an interservice transfer while on active duty and who transferred without a break in active duty service to the same competitive category (for consideration to the grade of CPT). This demonstrates that he was indeed eligible for promotion to CPT and should not have been required to wait until the FY19 board, as his DOR for first lieutenant (1LT)/O-2 placed him within consideration for the FY17 promotion selection board.

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

a. On 27 June 2013, the applicant executed his oath of office and was appointed as a Reserve commissioned officer in the rank/grade of second lieutenant (2LT)/O-1.

b. Headquarters. U.S. Army Maneuver Center of Excellence Memorandum, Subject: Appointment as a Reserve Commissioned Officer of the Army under Title 10 USC, section 591 and 593 informed the applicant the President directed he was a Reserve commissioned officer of the Army, effective 27 June 2013, in the Quartermaster (QM) Corps.

c. On 8 August 2013, Orders Number T-08-308480, issued by AHRC, the applicant was ordered to active duty for training, effective 22 September 2013, for attendance to the QM Basic Officer Leader Course (BOLC) for 125-days.

d. On 24 January 2014, the applicant was honorably released from active duty.

e. On 26 December 2014, the applicant was promoted to the rank/grade of 1LT/O-2.

f. The applicant's DD Form 214 shows he entered active duty on 3 July 2015 in support of Operation Inherent Resolve in accordance with Title 10 USC section 12302. He was honorably released from active duty on 13 June 2016 after completion of 11-months and 11-days of active service.

g. On 23 January 2017, Orders Number T-01-700643, issued by the AHRC the applicant was ordered to active duty for training, effective 5 March 2017, for 13-days for attendance at the QM CPT Career Course.

h. On 21 July 2017, Orders Number A-07-701288, issued by AHRC, the applicant was ordered to active duty, effective 11 September 2017, to fulfill an active duty requirement in a voluntary indefinite status for a minimum active duty obligation of 36-months.

i. On 22 July 2017, Orders Number 717-203-RE22-6, issued by AHRC, by order of the Secretary of the Army the applicant was appointed in the RA of the United States in the rank/grade of 1LT/O-2. The effective date of the RA appointment was on the execution of an oath of office. Any existing or Reserve appointment as a commissioned officer was vacated upon the acceptance of the appointment. The applicant's service record is void of evidence of a RA oath of office.

j. The applicant's Soldier Management Services - WEB Portal Retirement Point Detail report shows as a commissioned officer he completed consecutive active service:

- 22 September 2013 through 24 January 2014 for QM BOLC
- 20 May 2014 through 30 June 2015 unknown reason, appears to be on multiple back to back orders
- 1 July 2015 through 16 June 2016 for Operation Inherent Resolve, though his DD Form 214 shows he was ordered to active duty on 3 July 2015
- 3 October 2016 through 10 September 2017, appears to be on multiple back to back orders

k. The applicant's DA Form 1506 (Statement of Service) shows the applicant

- Appointed as a commissioned officer on 27 June 2013
- entered his most recent period on continuous service for pay effective 11 September 2017
Total active service; 3 years, 9 months, and 6 days
- Basic active service date of 5 December 2013
- Pay entry base date of 27 September 2012

l. The applicant's DA Form 5016 (Retirement Accounting Statement) formerly called the Chronological Statement of Retirement Points shows the applicant earned in retirement year ending:

- 6 April 2013 – eight inactive duty points, eight membership points and 75 active duty points for a total of 91 creditable points
- Gap in retirement years during the period of 7 April through 26 September 2013
- 26 September 2014 – 33 inactive duty points, 15 membership points and 237 active duty points for a total of 285 creditable points
- 26 September 2015 – zero inactive duty points, 15 membership points and 350 active duty points for a total of 365 creditable points
- 26 September 2016 – 10 inactive duty points, 15 membership points and 261 active duty points for a total of 286 creditable points

4. The applicant provides:

a. Email to AHRC Adjudication DOR (AC) section, the applicant requested his DOR be adjusted in accordance with AR 600-8-29, paragraph 2-7d (4) which states "Commissioned officers with less than 1-year of continuous active duty (since there most recent placement on the active duty list) before the board convenes." Does not apply to him as he was in an active status from the time, he was promoted to the rank of 1LT. Also, AR 600-8-29 provides an exception to the 1-year rule in subsection (c) which states Army competitive category officer who received an interservice transfer while on active duty and who transferred without a break in active duty service to the same competitive category for consideration to the rank of CPT. The term active status is being misappropriated against the term active duty as they do not mean the same thing. He did not have a break in service while transferring from the Reserve component to the RA.

b. AHRC response and stated the applicant's Active DOR, which was completed on 6 September 2018, he carried over his Reserve component DOR of 26 December 2014 for 1LT. He was ineligible for consideration on the FY 2017 and 2018 CPT Army Competitive Category (ACC) Promotion Selection Board (PSB) due to the 1-year active duty list rule in accordance with AR 600-8-29, paragraph 2-7e (4). His first eligible look for the rank of CPT was in the above zone during the FY 2019 CPT ACC PSB and he was selected with the effective DOR of 1 September 2019 which was the earliest date for promotion from the list. Promotion eligibility was based off previous DOR and not basic active service date. There was no merit for any adjustment.

c. Email to AHRC Chief of Promotions dated 8 June 2023 which states the applicant attached a personal statement which offered a comprehensive analysis and enhanced comprehension of his issue he was experiencing. The applicant did not provide his statement.

d. AR 135-155 effective 13 December 2022, prescribes policy and procedures used for selecting and promoting commissioned officers (other than commissioned warrant officers) of the Army National Guard of the United States (ARNGUS) and of commissioned and warrant officers (WO) of the U.S. Army Reserve (USAR).

e. AR 60-8-29 effective 9 September 2020, prescribes the officer promotion function of military human resources support operations. It is linked to AR 600-8 and provides principles of support, standards of service, policies, tasks, rules, and steps governing all work required in the field to support Active Component officer promotions. U.S. Army Reserve promotions are covered under AR 135-155.

BOARD DISCUSSION:

1. The Board determined 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.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. The ADL (Active Duty List) includes all active-duty officers except Reserve officers serving on active duty for training and other special duties. The RASL (Reserve Active Status List) includes all Reserve officers in an active status other than those serving on active duty in a non-training capacity.

b. The applicant was appointed as a Reserve commissioned officer in June 2013 and he was promoted to 1LT in the USAR on 26 December 2014. When the applicant transferred from the RASL to the ADL, his active duty date of rank was completed on 6 September 2018, and as required by the governing regulation, he kept the same grade and ADOR that he held the day before transferring. In other words, he carried over his Reserve component DOR of 26 December 2014 for 1LT. In order to qualify for promotion consideration from 1LT to CPT, he had to have been on the ADL for 1 year. The applicant was ineligible for consideration on the FY 2017 and 2018 CPT Army Competitive Category (ACC) Promotion Selection Board (PSB) due to the 1-year active duty list rule in accordance with AR 600-8-29, paragraph 2-7e (4).

c. The applicant became first eligible for promotion consideration to CPT was in the above zone during the FY 2019 CPT ACC PSB. He was considered and he was selected for promotion with the effective DOR of 1 September 2019 which was the earliest date for promotion from the list. Promotion eligibility was based off previous DOR and not basic active service date. Therefore, the Board determined his contention that he should receive an earlier date of rank is not justified.

d. In order to qualify for an SSB, the applicant must meet one or more of the following conditions: was not considered from in or above the promotion zone by a regularly scheduled board because of administrative error; the board that considered an officer from in or above the promotion zone acted contrary to law or made a material error; or the board that considered him from in or above the promotion zone did not have before it some material information. The Board did not find evidence that the applicant met any of these conditions.

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.

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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. 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. 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.

3. AR 600-8-29 (Officer Promotions) in effect at the time, prescribes the officer promotion function of the military personnel system.

a. Paragraph 1-10 c. As established by the Secretary of the Army (SA) under 10 USC 573, 574, and 619, officers must meet the following minimum Time in Grade (TIG) requirements to be considered for promotion: (4) CPT, MAJ, and LTC. These officers must serve at least 3 years TIG to be considered for promotion. This requirement may be waived by the SA, for consideration from below the zone, in accordance with 10 USC 619(a)(4). e. Officers in the following categories are not eligible for consideration by a promotion selection board: (1) Officers whose established separation or retirement date falls within 90 days after the date on which the board is convened (10 United States Code (USC), sections 577 and 619). (5) Commissioned officers with less than 1-year of continuous active duty (since their most recent placement on the Active Duty List (ADL)) before the board convenes (10 USC, section 619(c)). Requests for exception to this requirement must be forwarded through the first general officer in the chain of command to Commander, Army Human Resources Command. The requests must substantiate that the officer's break in service does not warrant the protection provided by the 1-year active duty requirement. Requests for exception will be processed on a case-by-case basis. The following are exempt from the 1-year rule: major). (c) An Army competitive category officer in the grade of 1LT who received an interservice transfer while on active duty and who transferred without a break in active duty service (for consideration to the grade of CPT.

b. Paragraph 1-25 (Interservice transfer), a. Precedence or relative rank for interservice transfers. (1) A regular component commissioned or Warrant Officer (WO) who transfers from another uniformed service will keep the same grade and ADOR that he or she held the day before transferring. (2) A Reserve Component commissioned or WO who transfers from another uniformed service will keep the same grade and ADOR

if he or she was on extended active duty on the day before transferring. c. Promotion eligibility. Officers transferring to the Army from another service without a break in service are immediately eligible for promotion consideration if their DOR places them within the promotion zone for a grade for which the selection board had not adjourned before the effective date of the transfer. Their names will be submitted to an SSB for consideration as prescribed in chapter 7. If approved, their names will be placed on the promotion list according to their DOR; however, the effective date of promotion may not be before their entry on active duty in the Army.

c. Paragraph 1-41 (Active date of rank of other than Regular Army 1LTs and above upon placement on the active duty list), c. The OTRA commissioned officers in the grade of 1LT or above who received entry grade credit at the time of their most recent original appointment may be tendered a new original appointment in a higher grade, coincident with placement on the ADL, if the period of service so credited equals or exceeds the promotion phase point in that higher grade in their respective competitive category at the time they were placed on the ADL. An officer may not be placed on the ADL in a grade higher than major under this paragraph.

d. Paragraph 7-2 a. The SSBs may be convened under Title 10 USC, section 628 to consider or reconsider commissioned or warrant officers for promotion when HQDA discovers one or more of the following: (1) An officer was not considered from in or above the promotion zone by a regularly scheduled board because of administrative error. This would include officers who missed a regularly scheduled board while on the Temporary Disability Retired List and who have since been placed on the ADL (10 USC, section 628(a)(1) (SSB required)). (2) The board that considered an officer from in or above the promotion zone acted contrary to law or made a material error (SSB discretionary). (3) The board that considered an officer from in or above the promotion zone did not have before it some material information (SSB discretionary). b. Special Selective Continuation Boards may be convened in accordance with Title 10 USC, section 637 for commissioned officers

3. AR 600-8-29 (Officer Promotions), current, prescribes the officer promotion function of military human resources (HR) support operations. Paragraph 2-7. Promotion eligibility a. To be considered for promotion by a selection board, an officer must be on the ADL on the day the board convenes. e. Officers in the following categories are not eligible for consideration by a PSB: (4) Commissioned officers with less than 1 year of continuous active duty (since their most recent placement on the ADL) before the board convenes. Requests for exception to this requirement must be forwarded through the first General Officer in the chain of command to the Commanding General, U.S. Army Human Resources Command. The requests must substantiate that the officer's break in service does not warrant the protection provided by the 1-year active duty requirement. Requests for exception must be received by AHRC prior to the convene date of the board and will be processed on a case-by-case basis. The following are exempt from

the 1-year rule: (c) An Army competitive category officer who received an interservice transfer while on active duty and who transferred without a break in active duty service to the same competitive category (for consideration to the grade of CPT).

4. Title 10 USC, section 531 (Original appointments of commissioned officers), (b) The grade of a person receiving an appointment under this section who at the time of appointment (1) is credited with service under section 533 of this title, and (2) is not a commissioned officer of a reserve component shall be determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited. The grade of a person receiving an appointment under this section who at the time of the appointment is a commissioned officer of a reserve component is determined under section 533(f) of this title. (c) Subject to the authority, direction, and control of the President, an original appointment as a commissioned officer in the Regular Army, Regular Air Force, Regular Navy, Regular Marine Corps, or Regular Space Force may be made by the Secretary of Defense in the case of a reserve commissioned officer upon the transfer of such officer from the reserve active-status list of a reserve component of the armed forces to the active-duty list of an armed force, notwithstanding the requirements of subsection (a).

5. Title 10 USC, section 533 (Service credit upon original appointment as a commissioned officer), (f) A reserve officer (other than a warrant officer) who receives an original appointment as an officer (other than as a warrant officer) in the Regular Army, shall: (1) in the case of an officer on the active-duty list immediately before that appointment as a regular officer, be appointed in the same grade and with the same DOR as the grade and DOR held by the officer on the active-duty list immediately before the appointment; and (2) in the case of an officer not on the active-duty list immediately before that appointment as a regular officer, be appointed in the same grade and with the same DOR as the grade and DOR which the officer would have held had the officer been serving on the active-duty list on the date of the appointment as a regular officer.

6. Title 10 USC, section 619 (Eligibility for consideration for promotion: time-in-grade and other requirements), (c) Officers To Be Considered by Promotion Boards, (1) Each time a selection board is convened under section 611(a) of this title for consideration of officers in a competitive category for promotion to the next higher grade, each officer in the promotion zone (except as provided under paragraph (2)), and each officer above the promotion zone, for the grade and competitive category under consideration shall be considered for promotion. (2) The Secretary of the military department concerned (B) may, by regulation, prescribe a period of time, not to exceed one year, from the time an officer is placed on the active-duty list during which the officer shall be ineligible for consideration for promotion.

7. Department of Defense (DoD) Instruction 1300.04 (Inter-Service And Inter-Component Transfers Of Service Members), The transfer of commissioned officers on the active duty list (ADL) or the Reserve Active-Status List (RASL) of a uniformed service to the ADL or RASL and the transfer of commissioned officers between the Regular and Reserve Components of the same Military Service. Integrate transferring officers already on a promotion list to the next highest grade of the losing uniformed service into the promotion list of the gaining Military Service. If a commissioned officer who transfers between Military Services is on a promotion list to the next higher grade in accordance with Sections 624 or 1403 of Title 10, USC., the Secretary of the Military Department concerned will integrate the officer into the promotion list of the gaining Military Service based on the officer's DOR in his or her current grade in the losing Military Service. d. Transferring between the ADL and the RASL.

//NOTHING FOLLOWS//