

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 July 2024

DOCKET NUMBER: AR20230014467

APPLICANT REQUESTS: in effect,

- reinstatement in the U.S. Army Reserve (USAR)
- promotion to the rank/grade of captain (CPT)/O-3
- a personal appearance before the Board via video or telephonically

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

- DD Form 149 (Application for Correction of Military Record)
- Miami Dade College associate in arts transcripts
- Miami Dade College bachelor of applied science transcripts
- DA Form 1059 (Service School Academic Evaluation Report) Infantry (IN) Basic Officer Leader Course (BOLC)
- U.S. Army Infantry School IN BOLC training certificate
- DA Form 67-10-1 (Company Grade Plate Officer Evaluation Report)
- Memorandum, Subject: Fiscal Year 2022 (FY22) CPT, Army, Maneuver, Fires & Effects (MFE) Special Selection Board (SSB) request
- U.S. Army John F. Kennedy Special Warfare Center and School Civil Affairs (CA) Captain Career Course (CCC) training certificate
- CA Corps membership certificate
- U.S. Army Reserve Command (USARC) Orders Number 4564464
- Applicant's letter to Representative S-

FACTS:

1. The applicant states in part:

a. He commissioned in the Army National Guard (ARNG) and in 2018 he returned from a 9-month deployment to the Horn of Africa. He and his wife wanted to start a family, so he transferred to the USAR Individual Ready Reserve (IRR). His release from the ARNG to the USAR IRR took over a year and one-half which caused him to be non-selected for promotion on the FY20 promotion selection board. He was later assigned to the USAR Troop Program Unit (TPU), 478th CA Battalion and began his training with the unit in February 2022. The transition from the ARNG to the USAR caused many of his

documents to be missing from his Interactive Personnel Electronic Records Management System (iPERMS) which cause him to be a second time non-select for promotion. Due to his Common Access Card (CAC) being expired he had to be issued a new CAC and could not access any of his information, to include his military email until July 2022 when the issue was resolved.

b. While with the 478th CA BN, he made several attempts to resolve his CAC issue and made multiple work order tickets with the Army's help desk. At that time the 487th CA BN S6 (Communication) section was vacant, waiting for a position to filled and he was unable to work through that specific section to help resolve the issue. Once his CAC was working, he had to update all his prior enlisted and National Guard awards, decorations, assignments, etc. due to his Officer Record Brief being completely blank. He was advised that his file being blank was common for Soldiers who transition from the ARNG to the USAR. During that time his S-1 section had issues updating his personal information and had to input information multiple times before the information would save.

c. In November 2022, he received a letter stating he was a Two Time Non-Select for the Captain's (CPT) Promotion Board and would be discharged seven months after. He contacted his Branch Manager, who is in charge of promotion information, advised him of his issue and non-select. He stated he would have to send a Special Selection Board (SSB) Memo to the President of the Promotion Board. His Branch Manager stated the reason he was not promoted was due to him not being educationally qualified. He advised him all his information had been uploaded since he commissioned in May 2014. He attended a four-year college, Miami Dade College, and to commission he needed a four-year degree which was submitted at that time.

d. After their conversation, he gathered the information needed, he sent a certified letter to the address provided to him in December 2022 and never received a reply back from the promotion board. His Branch Manager has all his information current and states that he is "promotable" for the FY2023 Promotion Board; including his end of assignment date which has changed to the proper date of 1 June 2042. His Company Commander Major D- W- and Battalion Commander Lieutenant Colonel (LTC) K- J- were made aware of his situation and attempted to help get the issue resolved, which was unsuccessful. LTC K- J- had a Civil Affairs Qualification slot open in January 2023 and due to him being in good standing with the unit, he was sent to Fort Bragg, NC, to complete the training. Upon his return to the 478th CA BN, he completed CCC and CA Qualification Course, which qualified him to conduct CA missions as a Team Chief.

2. A review of the applicant's service records show:

a. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant enlisted in the U.S. Air Force (USAF) on 4 March 2003. He

was honorably released from the USAF on 3 August 2008 and assigned to the USAF Reserve.

b. On 28 July 2012, the applicant was awarded an Associate in Arts degree in Basic Public Safety Management – Criminal Justice from the Miami Dade College.

c. On 13 September 2012, the applicant enlisted in the USAR as a cadet and was assigned to the USAR Control Group (Reserve Officers' Training Corps (ROTC)) and entered the ROTC program at the Miami Dade College.

c. On 3 May 2014, the applicant was awarded the Bachelor of Applied Science in Public Safety Management – Criminal Justice from the Miami Dade College.

d. On 7 May 2014, Orders Number 337-3, issued by the U.S. Army ROTC Southern Strike Battalion Florida International University, the applicant was discharged from the USAR to accept a commission in the U.S. Armed Forces, effective 7 May 2014.

e. On 7 May 2014, 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. He was subsequently appointed in the ARNG in the rank of 2LT and was extended temporary Federal recognition.

f. On 29 July 2014, Special Orders Number 210, issued by the National Guard Bureau (NGB), the applicant was appointed in the ARNG and was extended Federal recognition, effective 7 May 2014.

g. The applicant's DD Form 214 shows the applicant was ordered to active duty for training on 5 July 2015 to attend the IN BOLC. He was honorably released from active duty on 3 November 2015. DD Form 214 shows the applicant completed 3 months and 29 days of active service. He was awarded the area of concentration of 11A (Infantry).

h. DA Form 1059 shows the applicant achieved course standard for the IN BOLC during the period of 5 July through 3 November 2015.

i. On 2 March 2016, Special Orders Number 40, issued by the NGB, the applicant was promoted to the rank/grade of first lieutenant (1LT)/O-2, effective on with a date of rank of 7 November 2015.

j. On 14 June 2017, Orders Number 46-165-0135, issued by the Texas Military Forces ARNG, the applicant was ordered to active duty in support of Operation Enduring Freedom – Horn of Africa, effective 6 September 2017.

k. On 24 August 2018, the applicant was honorably released from active duty.

l. The applicant's officer record brief dated 27 August 2018 shows in sections:

- VI – Military Education – blank
- VII – Civilian Education – blank

m. On 23 September 2021, the applicant was honorably released from the ARNG and assigned to the USAR Control Group (IRR). NGB Form 22 (Report of Separation and Record of Service) shows the applicant completed 7 years, 4 months and 17 days of service. It also shows the applicant completed the IN BOLC in 2015.

n. On 4 January 2022, Special Orders Number IP-6565, issued by the NGB the applicant's Federal recognition was withdrawn, effective 23 September 2021, for transfer to the USAR.

o. On 13 January 2022, Orders Number C-01-201059, issued by the U.S. Army Human Resources Command (HRC), the applicant was assigned to a USAR TPU (478th CA BN), effective 10 January 2022.

p. On 5 December 2022, Orders Number T-12-233617, issued by HRC, the applicant was ordered to active duty for training, effective 6 January 2023, to attend the CA CCC.

q. DA Form 1059 shows the applicant met course standards for the CA CCC Phase I during the period of 7 January through 10 January 2023.

r. DA Form 1059 shows the applicant met course standards for the CA CCC Phase II during the period of 11 January through 20 January 2023.

s. DA Form 1059 shows the applicant far exceeded course standards for the CA CCC Phase III during the period of 21 January through 3 February 2023.

t. On 25 April 2023, Orders Number 4564464, issued the USAR Command, the applicant was involuntarily discharged from the USAR for two time non-select for promotion, effective 1 May 2023.

u. A screen shot of the applicant's iPERMS shows his associate degree transcript was uploaded into his record on 9 February 2023. His bachelor degree transcript was uploaded into his record on 28 March 2023.

3. The applicant provides:

a. DA Form 67-10-1 for the rating period of 19 February through 6 September 2022, the applicant was rated as a CA Team Chief. His rater rated his overall performance as proficient. His senior rater rated his overall potential as highly qualified. The senior rater commented he was in the top 10 percent of the lieutenants he senior rated. He should be promoted ahead of peers.

b. The applicant's request for an SSB under the FY22 CPT promotion selection board where he stated he understood the SSB shall not consider any person who may, by maintaining reasonably careful records, have discovered and taken steps to correct errors or omissions in which the original board based its decision against promotion. He was also afforded the opportunity to submit documents to his official records, his board file and correspondence to the President of the board of possible administrative deficiencies in his records or to bring special attention to any matters of importance during his consideration and failure to do so does not constitute a material unfairness or material error. He requests reconsideration for promotion on the FY22 CPT promotion selection board as his official transcripts were in iPERMS since 2014 but he was marked as not educationally qualified. Also due to no fault of his own he was not able to update his records due to issues with his CAC since being assigned to the USAR.

c. A letter to Representative S- which in effect, the applicant requested congressional inquiry regarding his involuntary discharge for twice non-select for promotion. He was educationally qualified with his bachelor degree awarded in 2014 and completion of BOLC in 2015. The transition from the ARNG to the IRR into the USAR TPU caused many errors in his records that he could not correct in a timely manner as his CAC expired while assigned in the IRR and after a new CAC was issued there were technical difficulties that took until July 2022 to get correct. His record has since been corrected to reflect he is in a qualified status for consideration for the FY 23 promotion selection board.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, 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 review based on law, policy, and regulation. The Board determined the applicant has not demonstrated by a preponderance of the evidence that relief is warranted. The applicant was twice non-selected for promotion to captain (CPT)/O-3 based on not meeting the educational requirements. Specifically, the applicant's higher education was not included in his official records. The Board acknowledges the applicant's record was ultimately corrected in 2023; however, the alleged error occurred much earlier. Overall, this Board finds that the non-selection and subsequent discharge from the U.S. Army Reserve produced a preponderance of evidence indicating the applicant did not meet his

responsibility to ensure his records were updated and the applicant has not demonstrated that an error or injustice occurred warranting corrective action to be reinstated into the U.S. Army Reserve or promoted to CPT/O-3.

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.

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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. Army Regulation (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.

2. AR 135-155 (ARNG and USAR Promotion of Commissioned Officer and Warrant Officer Other Than General Officers) in effect at the time, 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 USAR.

a. Paragraph 2-2 (Service Computation), b. Commissioned officers. Promotion to captain (CPT) and above requires a minimum number of years TIG. If an officer received service credit for prior commissioned service and/or constructive service credit on appointment, the officer's date of rank was determined under AR 135-100, and therefore controls the computation of the officer's TIG.

b. Paragraph 2-5 (Eligibility for consideration), to be eligible for consideration for promotion to the next higher grade, an ARNGUS or USAR officer must have continuously performed service on either the RASL or the ADL (or a combination of both lists) during the 1-year period ending on the convening date of the promotion board and must meet the TIG requirements.

c. Paragraph 2-9 (Civilian education requirements), effective 1 October 1995, no person may be selected for promotion to the Reserve grade of CPT unless, not later than the day before the selection board convene date, that person has been awarded a baccalaureate degree from an accredited institution recognized by the Secretary of Education or, within the 3-years preceding promotion, the officer has earned a baccalaureate degree from an unaccredited educational institution that has been recognized by the Department of Defense (DOD) for purposes of meeting officer educational requirements.

**Table 2-1**  
**Time in grade requirements commissioned officers, other than commissioned warrant officers**

From	To	Minimum Years in lower grade	Maximum Years in lower grade
O1 (2LT)	O2 (1LT)	2	42 months
O2 (1LT)	O3 (CPT)	2	5
O3 (CPT)	O4 (MAJ)	4	7

**Table 2-2**  
**Military educational requirements commissioned officers, other than commissioned warrant officers grade**

From	To	Requirements
2LT	1LT	Resident officer basic course. (See notes 1, 2, 6, 7, 8.)
1LT	CPT	Resident officer basic course. (See notes 2, 5, 6, 7, 8.)
CPT	MAJ	Any officer advanced course. (See notes 5 and 8.)
MAJ	LTC	Fifty percent of the Command and General Staff Officers Course (CGSOC). (See note 3.)

d. Paragraph 3-19. 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 SSB, as appropriate. SSBs, convened under the Reserve Officer Personnel Management Act (ROPMA) on and after 1 October 1996, will reconsider commissioned officers, (other than commissioned warrant officers) who were wrongly not considered and reconsider commissioned officers (other than commissioned warrant officers) who were considered but not selected by mandatory promotion boards that convened on or after 1 October 1996. These boards do not reconsider officers who were not considered or not selected by mandatory promotion boards that convened before 1 October 1996.

c. 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

Records of officers or former officers will be referred for SSB action when the Office of Promotions (RC) determines the following:

- An officer was eligible for promotion consideration; however, the officer's records were, through error, not submitted to a mandatory promotion selection board
- A review of a mandatory selection board finds that an officer's records contained a material error
- The Army Board for Correction of Military Records (ABCMR) requests such a referral

Office of Promotions may find that a "material error" caused the non-selection 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:

- record erroneously reflected that an officer was ineligible for selection for educational or other reasons, when in fact, the officer was eligible for selection when the records were submitted to the original board for consideration
- one or more of the evaluation reports seen by the board were later deleted from an officer's Official Military Personnel File (OMPF)



- one or more of the evaluation reports that should have been seen by a board (based on the announced cut-off date) were missing from an officer's OMPF
- one or more existing evaluation reports as seen by the board in an officer's OMPF were later modified
- another person's adverse document had been filed in an officer's OMPF and was seen by the board
- 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

e. Paragraph 4-30b (Second Non-selection), (2) 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.

f. Paragraph 4-33b (First lieutenants), a 1LT on the RASL who has failed of selection for promotion to CPT for the second time and whose name is not on a list of officers recommended for promotion to CPT, will be removed from active status not later than the first day of the seventh month after the month in which the final approval authority approves the report of the board which considered the officer for the second time unless the officer can be credited with 18 or more but less than 20-years of qualifying service for retired pay.

//NOTHING FOLLOWS//