

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 October 2024

DOCKET NUMBER: AR20240000377

APPLICANT REQUESTS:

- promotion reconsideration by a Special Selection Board based on the Fiscal Year (FY) 2023 Major (MAJ) Army Promotion List (APL), Promotion Selection Board (PSB) criteria
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum – Subject: Award of Diploma, 10 June 2022
- Diploma, 10 June 2022
- Officer Record Brief, 27 December 2023
- DA Forms 1059 (Service School Academic Evaluation Report)
- DA Forms 67-10-1 (Company Grade Plate (O-1 – O-3; WO-1 – CW2) Officer Evaluation Report

FACTS:

1. The applicant states in part he was eligible for promotion consideration by the FY23 MAJ APL PSB. However, his records were not reviewed due to a clerical error within his personnel records which reflected that he was "selected." He notes that this error occurred following his transition from the Army National Guard (ARNG) to the U.S. Army Reserve Control Group (Individual Mobilization Augmentee) Program in 2022-2023.

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

a. On 13 May 2011, the applicant was appointed a Reserve commission at the rank/grade of second lieutenant (2LT)/O-1.

b. On 21 May 2012, the National Guard Bureau (NGB) issued Special Orders Number 189 AR announcing Federal recognition of the applicant's initial appointment into the DCARNG, effective 14 May 2011.

c. On 13 June 2013, the NGB issued Special Orders Number 147 AR announcing Federal recognition of the applicant's promotion to the rank/grade of first lieutenant (1LT)/O-2, effective 20 May 2013.

d. On 13 February 2018, the NGB issued Special Orders Number 40 announcing Federal recognition of the applicant's promotion to the rank/grade of captain (CPT)/O-3, effective 15 November 2017.

e. On 20 April 2022, the DCARNG issued Orders Number 1780067 announcing the applicant's transfer into the USAR Control Group (Individual Ready Reserve), effective 29 April 2022.

f. On 22 June 2022, the NGB issued Special Orders Number 15 AR announcing the withdrawal of the applicant's Federal recognition and transfer into the USAR, effective 27 April 2022.

g. On 21 July 2022, the U.S. Army Human Resources Command (AHRC) issued Orders Number C-07-209156 announcing the applicant's reassignment into an IMA position, effective 29 April 2022.

3. The applicant provides the following a:

a. Memorandum – Subject: Award of Diploma, dated 10 June 2022, reflective of the applicant's successful completion of the Naval War College.

b. Diploma dated 10 June 2022, reflective of the applicant's successful completion of the College of Naval Command and Staff, Joint Professional Military Education Phase I on 10 June 2022.

c. Officer Record Brief dated 27 December 2023, reflective of the applicant's pertinent personnel information to include assignment and promotion history.

d. DA Forms 1059 reflective of the applicant's completion of the Aviation Captains Career Course, the Initial Entry Rotary Wing Training and Basic Officer Leaders Course.

e. DA Forms 67-10-1 reflective of the applicant's professional performance as evaluated by his immediate leadership between 1 October 2016 and 30 April 2022.

4. On 22 August 2024, the AHRC, Chief, Officer Promotions – Special Actions, provided an advisory opinion noting that after review of the applicant's records it was determined that there was no clerical error, and he was Below the Zone (BZ) of consideration for this promotion board based on his Date of Rank (DOR) to CPT of

15 November 2017. Based on Military Personnel (MILPER) Message Number 22-408, the BZ zone of consideration included officers with a DOR of 1 September 2017, through 31 August 2018. As such, the applicant is not eligible for an SSB under the FY23 board criteria, as SSB's are only granted for officers being reconsidered or omitted from their Promotion Zone (PZ) or Above the Zone (AZ). The applicant is not eligible for an SSB under the FY23 criteria; however, their office has actioned an SSB for his next eligible board, which was the FY24 Reserve Component MAJ APL. This SSB was held on 29 July 2024, and routed to the Office of the Director, Military Personnel Management (DMPM) on 7 August 2024 for review and Army Senior Leader staffing.

5. On 23 August 2024, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments. As of 9 October 2024, the applicant has not responded.

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. The applicant contends he should be eligible for promotion consideration based on the FY23, Major (MAJ), Army Promotion List (APL), Promotion Selection Board (PSB). The evidence shows the applicant was Below the Zone (BZ) of consideration for this promotion board based on his Date of Rank (DOR) to captain (CPT) of 15 November 2017. Based on MILPER Message 22-408, the BZ zone of consideration included officers with a DOR of 1 September 2017, through 31 August 2018. As such, the applicant is not eligible for a Special Selection Board under the FY23 board criteria, as SSB's are only granted for officers being reconsidered or omitted from their Promotion Zone (PZ) or Above the Zone (AZ). The Board also reviewed and agreed with the advisory official's determination that the promotion branch has actioned an SSB for his next eligible board, which was the FY24 RC MAJ APL. This SSB was held on 29 July 2024, and routed to the Office of the Director, Military Personnel Management (DMPM) on 7 August 2024 for review and Army Senior Leader staffing. The applicant will be advised of his status via official channels/chain of command.

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) 600-8-29 (Officer Promotions) provides policies, operating rules, and steps governing promotion of Army commissioned and warrant officers on the active-duty list. It applies to the Regular Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve commissioned and warrant officers on an active-duty list.

a. Paragraph 2-7 (Promotion Eligibility) provides that to be considered for promotion by a selection board, an officer must be on the active-duty list (ADL) on the day the board convenes. To be eligible for promotion to major (MAJ)/O-4, these officers must serve at least 3 years of Time in Grade (TIG) as a CPT. This requirement may be waived by the Secretary of the Army (SECARMY) only for consideration from below the zone.

b. Paragraph 2-8 (Below the Zone Consideration) provides that selection boards considering officers for promotion to MAJ may recommend outstanding officers from BZ of consideration. The Memorandum of Instruction will state the number of officers who may be selected for promotion from BZ. The board may recommend officers from BZ, within the number established by the SECARMY in the Memorandum of Instruction, who have the qualities and potential to warrant early promotion. Officers selected from BZ must be truly outstanding and clearly superior to those who would otherwise be selected from in or above the promotion zone. Since only a few officers may be selected for promotion from BZ of consideration, failure to be selected will neither count as a non-selection for promotion nor reflect unfavorably on an officer. SSB will not consider officers for BZ promotion. BZ candidates not selected for promotion will not be included on any list of officers considered and not selected by a particular board that is officially released.

c. Chapter 6 (Special Selection Boards) provides SSBs are governed by the same instructions provided to the boards that considered or should have considered an officer for promotion. SSBs may be convened under 10 USC 628 to consider, or reconsider commissioned or warrant officers for pro-motion when HQDA determines that one or more of the following circumstances exist:

- administrative error
- material unfairness

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

- 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
- an administrative error was immaterial, or the officer, in exercising reasonable diligence, could have discovered and corrected the error
- letters of appreciation, commendation, or other commendatory data for awards below the Silver Star are missing from the officer's Army Military Human Resources Record
- the PSB did not see a nonmandatory Department of the Army (DA) Form 4037 submitted to HRC after the suspense established in the promotion board zone of consideration MILPER message
- the PSB did not see a DA official photograph or saw an outdated DA official photograph
- the PSB did not consider correspondence to the board president that was delivered to the Commanding General, U.S. Army Human Resources Command
- the consideration in question involved an officer BZ

2. AR 15-185 (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 that applicant's 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//