

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 September 2024

DOCKET NUMBER: AR20240000695

APPLICANT REQUESTS: in effect,

- Special Selection Board (SSB) for reconsideration for promotion to the rank/grade of colonel (COL)/O-6
- a personal appearance before the Board

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record).

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 he requests the SSB due to material errors in his service record due to the lack of appropriate personnel in his unit to make sure his service record and Officer Record Brief were current for the Promotion Selection Board (PSB) and to ensure his Mandatory Removal Date (MRD) extension packet was processed accurately and in a timely manner. Due to the lack of appropriate personnel in the unit human resources section he received two MRD extensions; the first was for 2 years and the second was for 3 years, instead of receiving a 5-year MRD extension up front. This made him short for time in grade for the rank of COL. His MRD extension was also completed 2 months late, which caused him to be passed over by the PSB due to incorrect information in his service record.
3. A review of the applicant's service record shows:
 - a. On 31 July 2001, the applicant executed his oath of office and was appointed as a Reserve commissioned officer in the rank/grade of captain (CPT)/O-3.

b. On 18 October 2001, Orders Number C-10-129632, issued by the U.S. Total Army Personnel Command, the applicant was assigned to a U.S. Army Reserve (USAR) Troop Program Unit due to his appointment, effective 31 July 2001.

c. The applicant was ordered to active duty in support of Operations Iraqi Freedom and Enduring Freedom.

d. On 6 September 2013, Orders Number B-09-305735, issued by the U.S. Army Human Resources Command (AHRC), the applicant was promoted to the rank/grade of lieutenant colonel (LTC)/O-5, with a date of rank of 24 April 2013.

e. On 6 November 2017, the U.S. Army Reserve Command recommended the applicant's MRD request be approved. The applicant's request was received at AHRC on 6 November 2017 for continued processing. The Health Services Division completed an analysis of the General Dentist manning for the USAR. It was determined the USAR was at 200 percent strength in the rank of LTC. For the rank of COL, the USAR did not have authorized positions which placed the manning for a General Dentist in the rank of COL at 3400 percent.

f. On 18 December 2017, Orders Number B-12-790076, issued by AHRC, the applicant was retained in an active status until 31 October 2020.

g. On 4 April 2020, Orders Number UK-095-0117, issued by the 3rd Medical Deployment Support Command, the applicant was ordered to active duty in support of Coronavirus, effective 4 April 2020.

h. On 29 May 2020, the applicant was honorably released from active duty. His DD Form 214 shows the applicant completed 1 month and 26 days of active service.

i. On 19 August 2022, Orders Number 22-231-00038, issued by Headquarters, 99th Readiness Division (USAR), the applicant was assigned to the USAR Control Group (Retired Reserve), effective 31 October 2022, due to maximum age, in the rank of LTC.

j. The applicant's Soldier Management Services - WEB Portal shows:

- MRD for maximum age – 31 October 2017
- Retained beyond MRD until – 31 October 2022
- Fiscal Year (FY) 2022 COL Army Medical Department (AMEDD) PSB consideration but not selected
- FY 2021 COL AMEDD PSC consideration but not selected
- FY 2020 COL AMEDD PSC consideration but not selected
- FY 2018 COL AMEDD PSC consideration but not selected

- MRD Extension packet:
 - Received at AHRC on 8 November 2017 from USARC
 - Routed to USARC Commanding General for approval/disapproval on 5 December 2017
 - 29 January 2018 – approval memorandum received

4. On 28 May 2024, in the processing of this case, AHRC provided an advisory opinion regarding the applicant's request for an SSB for reconsideration for promotion to the rank of COL. The advisory official stated the applicant's board file was reviewed by the FY 18 COL AMEDD, Dental Corps (DC), Non-Active Guard/Reserve (AGR), PSB as an in the zone candidate; however, he was not selected for promotion. His board file was also reviewed by the FY 19, FY 20, FY 21 and FY 22 COL AMEDD, DC, Non-AGR PSB but he was not selected for promotion. There does not appear to be an administrative error in the applicant's service record/board file. However, if he feels his non-selection was due to an administrative error with his board file, he may submit a request for an SSB through the Army Board for Correction of Military Records. He must identify the error and provide supporting documentation to show what efforts were made prior to the convening date of the boards to correct the perceived errors.

For the FY 18 RC COL AMEDD DC Non-AGR PSB which the applicant was not selected, the board file record shows the applicant viewed and certified his board file on 6 March 2018.

For the FY 19 RC COL AMEDD DC Non-AGR PSB which the applicant was not selected, the board file record shows the applicant viewed and certified his board file on 12 February 2019.

For the FY 20 RC COL AMEDD DC Non-AGR PSB which the applicant was not selected, the board file record shows the applicant did not view and certify his board file.

5. On 12 June 2024, the Army Review Boards Agency, Case Management Division, provided the applicant the advisory opinion for review and comment. The applicant has not responded.

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 applicant's contentions, the military record, and regulatory guidance were carefully considered. Upon review of the applicant's petition, the service record, and advisory opinion provided by the U.S. Army Human Resources Command (HRC) the Board determined

the applicant was promoted to the rank of lieutenant colonel on 24 April 2013. The applicant appeared before the Fiscal Year 2018 Colonel Army Medical Department Non-Active Guard Reserve promotion selection board and was not selected for promotion. The applicant again appeared before the Fiscal Year 2019, Fiscal Year 2020, Fiscal Year 2021, and Fiscal Year 2022 promotion selection boards and was not selected for promotion. HRC found no administrative error within the applicant's record. The Board concurred with HRC and found no material error in his records. The Board concluded, the applicant does not meet the criteria for a Special Selection Board.

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. 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. 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.

3. AR 135-155 (Army National Guard and U. S. Army Reserve – Promotion of Commissioned Officers and Warrant Officers 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 U.S. Army Reserve (USAR).

a. Paragraph 2-11 (Consideration for promotion to colonel), selection boards will convene at the discretion of the Secretary of the Army (SA). They will consider ARNGUS and USAR officers, in all competitive categories for promotion to COL. These boards will consider and recommend only those who are in an active status. The SA:

- Prescribes the minimum Time in Grade (TIG) for an officer for each competitive category
- Requires that the name of each officer with the prescribed TIG be placed on the appropriate competitive category list
- Prescribes the maximum number of officers to be recommended for promotion from each competitive category (APL, CH, AN, DE, MC, MS, SP, and VC)
- Announces zones of consideration for promotion to COL on the RASL in all competitive categories

Officers not selected for promotion to COL will continue to be considered by subsequent selection boards until either selected or removed from the Reserve Active Status List.

b. 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
O4 (MAJ)	O5 (LTC)	4	7
O5 (LTC)	O6 (COL)	3	(See note below.)

Notes: Announced annually. Normal time in grade is 5-years, subject to the needs of the Army.

c. Table 2-2, Military educational requirements commissioned officers, other than commissioned warrant officers

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.)
LTC	COL	The CGSOC

d. Paragraph 3-19, 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 an SSB. SSBs, convened under the Reserve Officer Personnel Management Act (ROPMA) on and after 1 October 1996, will reconsider commissioned officers, who were wrongly not considered and reconsider commissioned 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. The board will convene 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:

- officer was eligible for promotion consideration; however, the officer's records were, through error, not submitted to a mandatory promotion selection board
- review of a mandatory selection board finds that an officer's records contained a material error
- ABCMR requests such a referral

//NOTHING FOLLOWS//