

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 November 2024

DOCKET NUMBER: AR20240001363

APPLICANT REQUESTS:

- amendment of item 12b (Separation Date This Period) of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show 12 July 2023
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Fiscal Year 2022 (FY22) Major (MAJ), Army Competitive Categories (ACC), Selection Board Results
- DA Form 67-10-2 (Field Grade Plate (O4 through O5; CW3 through CW5) Officer Evaluation Report (OER)
- DD Form 214, for the period ending 9 June 2023
- Email with U.S. Air Force (USAF) Accessions Recruiter
- AF Form 133 (Oath of Office (Military Personnel))
- Appointment Reserve Orders Number PA-00719
- Email with USAF Accessions

FACTS:

1. The applicant states he was selected for promotion to the rank/grade of MAJ/O-4 on the FY22 MAJ ACC selection board. However, he decided to resign his commission in the Regular Army (RA) to join the USAF Reserve. His separation date from the RA was 9 June 2023 but there was a delay in the scroll for the USAFR and he was unable to execute his oath of office until 13 July 2023 which gave him a break in service. He is requesting his separation date to be adjusted to 12 July 2023 so he does not have a break in service and the USAFR will honor the selection board results for promotion to MAJ. If his separation date is not adjusted, he will have to wait at least 12-months from the date of his USAFR commissioning to be considered for promotion to MAJ which will put him several years behind his peers.

2. A review of the applicant's service record shows:

a. With prior enlisted U.S. Army Reserve (USAR) cadet service, on 10 December 2012, Orders Number 345-007-A-0812, issued by Headquarters (HQs), U.S. Army Cadet Command, the applicant was ordered to active duty to accept an appointment in the USAR, effective 4 January 2013 for an active duty appointment.

b. On 19 December 2022, the applicant's request for separation from active duty was approved with an effective date of 9 June 2023. He did not request an appointment in the USAR.

c. On 13 February 2023, Orders Number 044-0001, issued by Joint Base Myer – Henderson Hall, the applicant was assigned to the U.S. Army transition point for a discharge date, effective 9 June 2023.

d. On 9 June 2023, the applicant was honorably discharged from active duty for miscellaneous/general reasons. DD Form 214 shows the applicant completed 10 years, 5 months, and 6 days of active service.

3. The applicant provides:

a. FY22 MAJ, ACC selection board results released on 6 October 2022 shows the applicant was selected for promotion under the Operations Support with a sequence number of 0230.

b. DA Form 67-10-2 for rating period 28 February 2022 through 10 April 2023 shows the applicant was rated as a Space Control Branch Chief. His rater rated his overall performance as excels in a lieutenant colonel branch chief role and shows to be a captain (CPT) promotable. His senior rater rated his potential as highly qualified and commented his selection for promotion was spot on and was a dynamic leader who delivers results, groom for future command opportunities.

c. Emails with the USAFR Officer Accessions Recruiter dated 26 April 2023 which stated his packet was waiting scroll approval and was approved on 5 July 2023 and it takes a week or two for the Reserve Assignments Branch to complete the processing of his packet. On 12 July 2023, the process was complete for him to execute his oath of office.

d. AF Form 133 shows the applicant executed his oath of office to be commissioned in the Reserve of the AF, effective 13 July 2023, in the rank of captain.

e. Air Reserve Personnel Center Initial Military Training 92 (Appointment Order) shows Reserve Orders Number PA-00719 dated 22 August 2023 shows the applicant was appointed on 13 July 2023 with the date of rank for CPT, effective 18 January 2017, in a MAJ position with the Secretary of Defense scroll 2980 dated 24 May 2023.

f. Email with the USAFR Accessions Division date 17 November 2023 which stated the Secretary of Defense approved the scroll on 24 May 2023; however, it was not returned to the accessions branch until 8 June 2023. The applicant was separated from the U.S. Army, effective 9 June 2023, and his oath of office for the USAFR was executed on 13 July 2023 and his oath of office could not be backdated. He could request the Board for Corrections of Military Records to adjust his separation date due to a delay in being scrolled into the USAFR at no fault of his own and requesting the break in service to be removed.

4. On 19 August 2024, in the processing of this case, the AHRC provided an advisory opinion regarding the applicant's request for the adjustment of his separation date to 12 July 2023. The advisory official stated the applicant submitted his unqualified resignation on 22 June 2022 for a separation date of 9 June 2023. His request was approved on 19 December 2022. Nowhere in the applicant's request for his resignation did he mention he wanted to transfer to the USAR or the USAFR. Therefore, his request for unqualified resignation resulted in him being totally separated on 9 June 2023. The Officer Management Division cannot change his separation date from the Army as a change in the date would result in additional pay and benefits due to him. Had he requested to enter the USAR he could have been transferred to the Individual Ready Reserve while waiting for the transfer to the USAFR to occur. His scroll to the USAFR was approved on 24 May 2023 over 2-weeks prior to his separation from the Army. The USAFR had time to ensure the paperwork was in order prior to his separation from the U.S. Army (USA) and joining the USAFR. The delay to complete the oath of office into the USAFR resulted in his break in service.

5. On 21 August 2024, the Army Review Boards Agency, Case Management Division provided the applicant the advisory opinion for an opportunity to provide a response.

6. On 26 August 2024, the applicant responded stating in June 2022, he received his mandatory counseling from the USAR regarding opportunities in the USAR; however, Space Operations was not available in the USAR. Therefore, he declined the option to transfer to the USAR in his resignation request. After he submitted his resignation, he learned of the opportunity to serve in the USAFR in space operations. In October 2022, he contacted the USAF recruiter and discovered he could request an inter-service transfer from the USA to the USAFR. On or about 15 December 2022, he submitted his conditional release to his chain of command which was approved on 29 December 2022. He then provided it to his recruiter.

a. His request for the adjustment of his separation date is administrative, he is not requesting any additional pay or benefits. If required, he is willing to sign a declination statement to his right to receive pay and benefits for the 33-days to have his separation date adjusted to 12 July 2023.

b. The applicant provided his DD Form 368 (Request for Conditional Release) which shows on 15 December 2022 the applicant requested a conditional release from the USA for appointment in the USAFR. The release would be valid until 9 June 2023. The authorizing official, the applicant's battalion commander signed the DD Form 386 on 29 December 2022 approving his request.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, 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. Upon review of the applicant's petition and available military records, the Board reviewed and concurred with the U.S. Army Human Resources Command advising official finding the applicant submitted his unqualified resignation on 22 June 2022 for a separation of 9 June 2023 and his request was approved in December 2022. The Board concluded the applicant did not serve the time requested in an active or inactive status and therefore there is no provision to warrant relief. The DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

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 (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 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 635-8 (Personnel Separations – Separation Processing and Documents), prescribes the transition processing function of the military personnel system. It provides principles of support, standards of service, policies, tasks, rules, and steps governing required actions in the field to support processing personnel for separation and preparation of separation documents. Paragraph 5-6 (Rules for completing the DD Form 214), this paragraph provides detailed instructions for data required in each block of the DD Form 214. Subparagraph I (Block 12: Record of Service), (2) Block 12b: (Separation Date This Period), List the Soldier's transition date. This date may not be the contractual date if the Soldier was separated early, voluntarily extends, is extended to make up lost time, or is retained on active duty for the convenience of the government.

3. AR 600-8-24 (Officer Transfers and Discharges), prescribes the officer transfers from active duty (AD) to the Reserve Component (RC) and discharge functions for all officers on AD for 30-days or more. It provides principles of support, standards of service, and policies to support office transfers and discharges.

a. Paragraph 3-2 (Date changes/withdrawals of resignation), a. An officer may request withdrawal of resignation at any time prior to commencing travel pursuant to orders issued for the purpose of separating the officer. The request, including reasons, will be forwarded through channels. Each forwarding endorsement will include recommendation for approval or disapproval. Reasons for disapproval will be stated. b. A resignation may be withdrawn only with the approval of Headquarters department of the Army, with the exception of an unqualified resignation. An unqualified resignation may be withdrawn on the approval of an endorsing commander in the field and returned to the officer concerned, provided the resignation has not been forwarded by the commander to CG, HRC. c. All date change/withdrawal requests should follow the procedures outlined in figures 3–5 and 3–6, respectively. d. HRC will change the release from active duty (REFRAD) date, and notify the applicable Transition Center and officer, in cases when a commissioned officer's Reserve appointment has not been approved by the appropriate authority within 10-days of the REFRAD date. In such cases the REFRAD date will be pushed back in 30-day increments until the appointment is approved or otherwise acted on.

b. Paragraph 3-5 (Unqualified resignation), a. Any officer on AD (for more than 90 calendar days) may tender a resignation under this paragraph except when action is pending that could result in resignation for the good of the service; officer is under a suspension of favorable actions, pending investigation, under charges; or any other unfavorable or derogatory action is pending. c. An RA commissioned officer (excluding a commissioned warrant officer) who has completed the 8-year MSO may request appointment as a USAR commissioned officer concurrent with REFRAD. If approved, the officer is not required to execute a DA Form 71 to accept the appointment. HRC will issue separation instructions on approved requests to the appropriate military personnel division.

//NOTHING FOLLOWS//