

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 20 November 2024

DOCKET NUMBER: AR20240002174

APPLICANT REQUESTS: correction of the effective Date of Rank (DOR) for promotion to lieutenant colonel (LTC) to reflect 8 November 2019.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE

- DD Form 149 (Application for Correction of Military Record)
- Special Orders Number 115, 17 November 2022

FACTS:

1. The applicant states in pertinent part he has served in LTC positions since 10 July 2018. In November 2022, he received Federal recognition orders with a Promotion Eligibility Date (PED) of 8 November 2019; DOR of 31 August 2022. He contests that he only received pay and entitlements at the rank of LTC from August – November 2022 instead of from 8 November 2019 – August 2022. Adjusting his DOR will allow for his retirement pay to be calculated based on "high 3" solely based on his pay and entitlements as an LTC.

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

a. After serving as an enlisted Soldier in the Active and Reserve components, on 5 August 2000, the applicant was appointed a Reserve commission within the Army National Guard (ARNG) at the rank of second lieutenant (2LT).

b. On 31 October 2011, the National Guard Bureau (NGB) issued Orders Number 304-11 ordering the applicant to active duty in the Active Guard/Reserve (AGR) program, effective 5 December 2011.

c. On 11 March 2013, the NGB issued Orders Number 71 AR announcing Federal recognition of the applicant's promotion to the rank of major (MAJ), effective 8 November 2012.

d. On 17 November 2022, the NGB issued Special Orders Number 115 announcing Federal recognition of the applicant's promotion to LTC, with a DOR of 8 November 2019, and effective 31 August 2022.

e. On 4 March 2024, the NGB issued Orders Number 064-0001 reassigning the applicant to the transition center pending separation processing.

f. On 31 May 2024, the applicant was honorably retired from military service at the rank of LTC. DD Form 214 (Certificate of Release or Discharge from Active Duty), item 12i (Effective Date of Pay Grade) shows 8 November 2019.

3. On 30 September 2024, the NGB, Chief, Special Actions Branch, provided an advisory opinion recommending denial of the applicant's request noting that the applicant's DOR of 8 November 2019 is the date he was approved for promotion by a Federal Recognition Board and that date is used for calculation of time in grade for promotion to the next higher rank. The effective DOR of 31 August 2022 is when his Federal recognition was extended by the Secretary of the Army (SECARMY) after his scrolling process. The applicant's status as a Title 10 AGR Officer caused a delay in his effective DOR because of Title 10, USC, section 14311 limiting the number of each grade for Title 10 AGR Officers. Therefore, the applicant received appropriate dates for his DOR and effective DOR per Title 10 USC 14311 and the date the SECARMY approved his promotion to LTC.

4. On 3 October 2024, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments. As of 18 November 2024, 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 Board carefully considered the applicant's record of service, documents submitted in support of the request and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's request, available military records, and National Guard Bureau (NGB) – Special Actions Branch advisory opinion, the Board concurred with the advising official recommendation for denial finding the applicant's DOR of 8 November 2019 is the date he was approved for promotion by a Federal Recognition Board and that date is used for calculation of time in grade for promotion to the next higher rank.

2. The Board agreed based on the advising official opine, there is insufficient evidence to support the applicant's contentions for correction of the effective Date of Rank (DOR)

for promotion to lieutenant colonel (LTC) to reflect 8 November 2019. Therefore, the Board denied relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.

REFERENCE:

National Guard Regulation 600-100 (Commissioned Officers Federal Recognition and Related Personnel Actions), paragraph 8-3 (Promotion as a Reserve Commissioned Officer of the Army) provides that an officer's effective date and DOR as a Reserve of the Army will be determined by their duty status, type of selection board which selected the officer, and delay status (if applicable), and will be as defined below, unless otherwise provided by law. Chief, National Guard Bureau (CNGB) will extend Federal

Recognition in the higher grade to an Army National Guard (ARNG) commissioned officer using NGB Form 0122E series orders (NGB Special Federal Recognition Orders). The effective date determines the officer Federal pay and allowances in the next higher grade. The effective date is determined when CNGB in conjunction with the Secretary of Defense (SECDEF) approval.

a. Department of the Army (DA) Select Active Guard Reserve (AGR) Commissioned Officers promoted upon DA Selection. If an AGR Officer is recommended for promotion by a DA Board to the grade of LTC or below, is already assigned to the next higher-grade position on the day the board report is approved, and an AGR controlled grade is available, the Officer's Effective Date and DOR will be the date the board report is approved by the SECDEF.

b. DA Select AGR Commissioned Officers who are involuntarily delayed due to lack of controlled grade (10 USC 14311). If a DA Select AGR Officer is involuntarily delayed and not assigned to the next higher-grade position, the DOR will be the date the Officer is subsequently assigned to the position of higher grade or the Maximum Time in Grade, whichever is earlier. The effective date will be the date the controlled grade authorization is available. Backdated effective dates due to AGR controlled grade limitations in previous fiscal years are not authorized.

//NOTHING FOLLOWS//