

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 December 2024

DOCKET NUMBER: AR20240005627

APPLICANT REQUESTS:

- reconsideration before a Special Selection Board (SSB) for promotion to major (MAJ) under the Fiscal Year 2014 (FY14) MAJ Army Medical Department (AMEDD) Promotion Selection Board (PSB) criteria
- reinstatement in the U.S. Army Reserve (USAR)
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored statement
- [REDACTED] University diploma
- [REDACTED] University diploma
- DA Form 67-9 (Officer Evaluation Report (OER))
- DA Form 67-9-1 (OER Support Form)
- State [REDACTED] license
- Email regarding FY12 MAJ AMEDD Promotion Board
- Letter to the President of the Board
- Email regarding Army Knowledge Online (AKO) Access
- Request for SSB
- Request for transfer to the USAR
- Civilian Resume
- Military Resume

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 was commissioned in the USAR 22 years ago which had changed his life. If given the opportunity to serve again, he looks forward to what he can contribute to the USAR and continuing his Army career. He has dedicated his life to the care of others, entering the Medical Service Corps was an honor to serve Soldiers and their families by providing the best care that Army medicine brought to bear. The Army has made him a more rounded provider who can see both sides of the mission; quality of care the Army seeks to provide and the continuum of care we are committed to deliver. The Army continues to be a superior source that provides continual and sustained professional development opportunities while pushing him to reach his full and best potential. His giving back as a leader is important to him, he will give back by being a mentor and leading by example to the next young officer. His skill sets, personality and confidence in his leadership are attributes he would like to continue to contribute to the Army.

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

a. On 20 May 1996, the applicant was awarded a Bachelor of Arts in Psychology from [REDACTED] University.

b. In December of 2001, the applicant was awarded a Master of Public Administration from [REDACTED] University.

c. On 21 December 2001, the applicant executed his oath of office and was appointed in the Medical Services Corps as a Reserve commissioned officer in the rank/grade of second lieutenant (2LT)/O-1.

d. On 5 March 2002, Orders Number C-03-206322, issued by the U.S. Total Army Personnel Command, the applicant was assigned to a USAR Troop Program Unit (TPU), effective 21 December 2001.

e. On 9 April 2003, Orders Number C-04-310401, issued by the USAR Personnel Command, the applicant was assigned to the USAR Control Group (Individual Mobilization Augmentee (IMA)), effective 8 April 2003.

f. On 29 July 2003, the U.S. Total Army Personnel Command notified the applicant he was considered but not selected for promotion to the rank/grade of first lieutenant (1LT)/O-2 due to not being military educationally qualified as there was no evidence he completed the basic course. Officers in his grade who are not selected for promotion will be retained for a minimum of 6 months from the date he would have been promoted had he been selected. Accordingly, if not discharged or promoted sooner, he would be discharged no later than 18 months from the date he was found not qualified for promotion.

g. DA Form 1059 (Service School Academic Evaluation Report) shows the applicant marginally achieved course standard at the AMEDD Officer Basic Course by scoring less than 75 percent of the total course points during the period of 14 July through 19 September 2003.

h. On 20 October 2003, the U.S. Army Human Resources Command (AHRC), notified the applicant he was promoted to the rank/grade of 1LT/O-2, effective 20 December 2003.

i. On 30 October 2003, AHRC awarded the applicant primary Area of Concentration (AOC) 70A (Health Care Administration) and secondary AOC 70B (Health Services Administration).

j. On 23 December 2003, Orders Number C-12-329662, issued by AHRC, the applicant was assigned to the USAR Control Group (Reinforcement), effective 23 December 2003.

k. On 5 June 2006, the Academy of Health Science, U.S. Army notified the applicant he successfully completed the AMEDD Captain (CPT) Career Course Phase I and was eligible to attend the AMEDD Officer Advanced Course Phase II.

l. DA Form 1059 shows the applicant marginally achieved course standards due to failure to meet the Army Physical Fitness Test standards at the AMEDD CPT Career Course during the period of 18 through 30 June 2007.

m. On 15 August 2007, Orders Number C-08-725392, issued by AHRC, the applicant was assigned to a USAR TPU, effective 15 August 2007.

n. On 17 August 2007, Orders Number B-08-706012, issued by AHRC, the applicant was promoted to the rank/grade of CPT/O-3, effective on with a date of rank of 15 August 2007.

o. On 22 July 2008, Orders Number C-07-813652, issued by AHRC, the applicant was assigned to an IMA position, effective 15 July 2008.

p. On 1 November 2010, Orders Number C-11-015788, issued by AHRC, the applicant was assigned to the USAR Control Group (Reinforcement) due to the lack of position, effective 18 October 2010.

q. On 4 August 2014, Orders Number D-08-416190, issued by AHRC, the applicant was honorably discharged from the USAR, effective 1 February 2015.

4. The applicant provides:

a. [REDACTED] University diploma which shows the applicant was awarded a Bachelor of Arts in Psychology on 20 May 1996.

b. DA Form 67-9 for the rating period of 10 through 21 November 2003 shows he was rated as an Assistant Chief, Personnel. His rater rated his overall performance as outstanding and must promote. The rater commented he was a welcome asset during his annual training. He should be selected for promotion and be allowed to attend the Officer Advanced Course. His senior rater rated his promotion potential as best qualified. The senior rater commented his experience as a civilian health administrator would serve him well in his future assignments. He should attend the Officer Advance Course as soon as possible and should be selected for active duty and promote to captain at first opportunity.

c. State of [REDACTED] State Board of Nursing Home Administrators license was issued on 20 April 2004.

d. Email from AHRC dated 26 September 2011, informed him he was eligible for consideration before the FY12 MAJ AMEDD PSB. The board file would be available to review on 10 November 2011.

e. Applicant's letter to the president of the board for the FY14 MAJ AMEDD PSB where he stated his board file was incomplete, largely due to his inability to access his record portal. He has made numerous attempts to contact the help desk to gain access. As a Soldier assigned to the Individual Ready Reserve, he was not authorized a common access card which prevents him from correcting his files. Due to his assignments, he had only been issued one OER and he understood that a performance rating was critical for promotion consideration. He had worked with a Retention Noncommissioned Officer (NCO) in locating a USAR TPU. He is most passionate and committed to his Army career and core values and committed his life to the Army.

f. Email between 17 October 2014 and 16 January 2015 requesting assistance in obtaining access to his board file through AKO.

g. Army Study Guide blog where unknown persons were discussing the issues accessing AKO.

h. On 20 January 2015, the applicant contacted AHRC to request reconsideration for promotion under the FY14 MAJ AMEDD PSD criteria. The reconsideration was required due to a material unfairness created by arbitrary change to procedures used to notify officers of promotion board dates. As a result of this material unfairness, documents were omitted from his board file as he was unable to prepare his file. The only adequate recourse for his unfairness is to be granted a promotion reconsideration. Also, due to no fault of his own he made extraordinary efforts to obtain access to AKO

which would allow him access to his board file. He was denied access due to an extreme technical problems with AKO, therefore, it is not unreasonable to deny his request.

i. On 22 January 2015, a Retention NCO advising he had been attempting to locate a unit for the applicant's assignment since 3 December 2012. Several issues were encountered which prevented his assignment such as obtaining a security clearance update.

j. Civilian resume available for the Board to review.

k. Military resume available for the Board to review.

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 Board concluded that the delayed promotion 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 reconsidered before a Special Selection Board for promotion to MAJ.

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

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|---|---|---|----------------------|
| : | : | : | 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.

3/25/2025

X

CHAIRPERSON

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 (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.

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 2-5 (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 Reserve Active Status List or the Active Duty List (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.

b. Table 2-1 (Time in grade requirements commissioned officers), for promotion from CPT to MAJ the minimum time in grade is 4-years with a maximum time in grade of 7-years. Table 2-2; the minimum military education level is completion of the officer advanced course.

c. 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.

d. 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, major, or lieutenant colonel will be removed from active status unless subsequently placed on a promotion list, selected for continuation, or retained under any other provision of law.

//NOTHING FOLLOWS//