

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 February 2025

DOCKET NUMBER: AR20240006014

APPLICANT REQUESTS:

- Adjustment of his major (MAJ)/O-4 Date of Rank (DOR) to 5 September 2022
- 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 2021 (FY21) MAJ Army Competitive Categories (ACC) Promotion Selection Board (PSB) Results Release Date, 23 September 2021
- Orders Number 221-0008, 9 August 2022
- DA Form 7774 (Promotion Qualification and Verification Statement), 4 October 2023
- Order Number 0003711869.01, 10 June 2024

FACTS:

1. The applicant states:

a. His DOR for MAJ is incorrect. He was promoted to MAJ in the Reserves on 22 January 2024. However, he was already a captain (CPT)/O-3 (promotable) from the 2021 MAJ, Operations (OPS), ACC Active Component (AC) Board. He is requesting his DOR to be backdated to the day he joined the U.S. Army Reserve (USAR) and was serving in a MAJ/O-4 billet on 5 September 2022.

b. He was selected for promotion while still a CPT on Active Duty on the 2021 MAJ, OPS, ACC AC Board. After reading Army Regulation (AR) 135-155 (Promotion of Commissioned Officers and Warrant Officers), he believes that he understands the scrolling process and the delay it caused with his promotion timeline. However, he does not understand why his effective DOR was not backdated at least to his entry into the USAR because he has held a valid MAJ/O-4 position since 5 September 2022. If not backdated to 5 September 2022, why not backdate to the approval date of the 2023 Reserve Component MAJ Army Promotion List (APL) Board?

2. A review of the applicant's service records show:

a. Having prior Reserve Officers' Training Corps (ROTC) Cadet service, DA Form 71 (Oath of Office – Military Personnel) shows the applicant was appointed as a Reserve commissioned officer and executed his oath of office on 10 August 2012.

b. On 7 September 2012, he entered active duty.

c. On 18 August 2016, Headquarters, U.S. Army Human Resources Command (HRC) published Order Number 231-034, which promoted the applicant to the rank/grade of CPT/O-3, effective on with a DOR of 1 September 2016.

d. On 20 September 2017, he completed the Military Intelligence Captains Career Course.

e. On 23 May 2022, U.S. Army Garrison Fort Belvoir published Orders Number 143-0001, which released the applicant from active duty and assigned him to the USAR Control Group (Reinforcement), Fort Knox, KY, effective 4 September 2022. On 9 August 2022, the order was amended to assign him to his Senior ROTC, USAR unit, Fort Knox, KY.

f. On 4 September 2022, DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant was released from active duty and was transferred to his USAR unit. He completed 9 years, 11 months, and 28 days net active service this period. Item 4a (Grade, Rate or Rank) shows CPT and item 12i (Effective Date of Pay Grade) shows 1 September 2016.

g. HRC MFR – Subject: Appointment as a Reserve Officer of the Army Under Title 10, U.S. Code (USC), section 12201 and 12203, dated 5 September 2022, informed the applicant that he was appointed as a Reserve Officer of the Army conclusive on his acceptance, in the rank/grade of CPT/O-3. In pertinent part, the MFR shows:

- Scroll Date/Rank: 22 August 2022, CPT USAR
- Date of Acceptance: 5 September 2022
- Effective Date: 5 September 2022

h. On 29 January 2024, Department of the Army published Order Number 0007107324.00, which promoted the applicant to the rank/grade of MAJ/O-4, effective 22 January 2024.

i. On 10 June 2024, Department of the Army published Order Number 0008403831.00, which assigned the applicant to the USAR Control Group (Reinforcement), Fort Knox, KY, effective 3 August 2024.

j. On 18 December 2024, HRC published Orders Number C-12-420434, which assigned the applicant to the Standby Reserve (Inactive List) for making no military service obligation, effective 18 December 2024.

3. In support of his petition to the Board, the applicant provides:

a. FY21 MAJ ACC PSB Results Release Date 23 September 2021, showing the applicant's name listed.

b. DA Form 7774 dated 4 October 2023, which provides his USAR promotion qualification information.

c. Order Number 0003711869.01 dated 10 June 2024, published by the Department of the Army, which amended Order Number 0003711869.00. The order shows:

- Action: Permanent Change of Assignment
- Reason: Transfer Voluntary
- Effective Date: 5 September 2022
- Report Date: 5 September 2022
- Report To: W8CX02 – "INSTR SEC 4TH BN 413 REGT", Fort Knox, Ky
- End Date: 2 August 2024

4. On 30 December 2024, the HRC, Chief, Officer Promotions Board Announcements, Support and Promotion Orders provided an advisory opinion for this case and stated:

a. Based on a review of the documents received, their current records, laws, regulations, policies, and the systems available to HRC Officer Promotions Branch we find that the applicant's request to adjust his DOR may have some merit in part. The applicant was recommended for promotion under the criteria of the FY21 MAJ (Operations) ACC PSB, with a projected DOR of 1 June 2023. However, the applicant (elected) was transferred to the Reserve Active Status List (RASL) effective date 4 September 2022 prior to being promoted.

b. Department of Defense Instruction (DoDI), 1310.02 (Original Appointments of Officers), clarifies that officers transferring between Active-Duty List (ADL) and the RASL require a new original appointment in their new component as of the date of transfer. Should an officer be on a promotion list awaiting appointment to the next higher grade, the officer's promotion selection will transfer with him or her, but the appointment does not. An approved appointment to the higher grade must be completed before the officer is promoted in the new component.

c. Officers who elect to transfer from the ADL to the RASL requiring promotion evokes a two-part process, first approval of appointment Scroll to the RASL, followed by

an approved Scroll for promotion on a RASL, which requires Secretary of Defense (SECDEF) approval. Moreover, this office was not made aware of his prior active component promotion selection until submission of the Reserve Component appointment scroll on 23 October 2023. The applicant's promotion scroll was approved on 22 January 2024 (his current DOR). We can only speculate that he may not have been provided with information of option to extend on the ADL and transfer after promotion had occurred. Having said this, in lieu of the SECDEF scroll approval date, we recommend that the applicant be granted partial relief and award him with his maximum (7-year) time in grade DOR of 31 August 2023, any earlier date would require documented proof from his command requesting an earlier date to include proof that shows him as the sole occupant in a MAJ position.

5. On 31 December 2024, the applicant was provided with a copy of the HRC advisory opinion to allow comments or rebuttal. He did not respond.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and the HRC, Chief, Officer Promotions Board Announcements, Support and Promotion advisory opinion, the Board concurred with the advising official recommendation finding the applicant's request to adjust his DOR may have some merit in part. The Board noted, the applicant was not eligible for a DOR of 5 September 2022 due to the absence of a timely promotion scroll and appointment in the Reserve Component.

2. The Board determined the applicant was selected for promotion under the Fiscal Year 2021 Major (Operations) Army Competitive Category Promotion Selection Board (FY21 MAJ ACC PSB) and subsequently transferred from the Active-Duty List (ADL) to the Reserve Active Status List (RASL) effective 4 September 2022. In accordance with Department of Defense Instruction (DoDI) 1310.02, officers transferring between the ADL and RASL must receive a new original appointment in the gaining component, and while promotion selection transfers with the officer, the appointment to the higher grade does not. The applicant's promotion scroll for the Reserve Component was not submitted until 23 October 2023 and was approved by the Secretary of Defense on 22 January 2024, which established his current DOR.

3. The Board agreed based on the applicant's prior selection for promotion and administrative delay in processing his Reserve appointment warrants awarding him the

maximum allowable constructive DOR under regulatory guidance. Therefore, the Board granted partial relief by adjusting the applicant's DOR to MAJ/O-4 to 31 August 2023, consistent with the seven-year time-in-grade provision and the recommendation of HRC. 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:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
XXX	XXX	XXX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DOR to MAJ/O-4 to 31 August 2023, consistent with the seven-year time-in-grade provision and the recommendation of HRC.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to adjustment of the applicant's major (MAJ)/O-4 Date of Rank (DOR) to 5 September 2022.

X //SIGNED//

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. 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. In pertinent part, the regulation states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. It will decide cases based on the evidence of record and it is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. Paragraph 2-11 states 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. DoDI Number 1310.02 (Original Appointments of Officers), paragraph 2 (Types of Original Appointments) states in subparagraph 2b (Reserve Appointments), to receive an original appointment as an officer in a Reserve Component, an officer must be appointed in accordance with Title 10, USC, section 12203 or 12241(b) and take the oath of office prescribed by Title 5, USC, section 1331. Officers transferred from the ADL to the RASL of the same Military Service are not required to take the oath of office. The officer recommended for appointment as a Reserve officer must meet the requirements, qualifications, and standards necessary for appointment as a Reserve officer, in accordance with DoDI 1304.26, "Qualification Standards for Enlistment, Appointment, and Induction," 23 March 2015 and DoDI 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services," 28 April 2010, as amended, and DoDI 1215.17, "Educational Requirements for Appointment to a Grade Above First Lieutenant or Lieutenant (Junior Grade) in a Reserve Component," 29 January 2014.
3. AR 135-155 (Promotion of Commissioned Officers and Warrant Officers) prescribes the officer promotion function of the military human resource support operations for officers on the RASL and U.S. Army Reserve (USAR) warrant officers (WOs). In pertinent part:
 - a. Table 2-1 (Time in grade and military education requirements for officer promotion consideration (statutory)) provides that, to be considered for promotion from CPT to MAJ the minimum Time- In-Grade (TIG) in lower grade is 4 years and maximum TIG in lower grade is 7 years.
 - b. Section I (Processing Promotion Lists), paragraph 3-1 (Promotion of unit officers) states, in order to accept a promotion, unit officers, other than USAR Active Guard Reserve officers, must be assigned to a position of grade commensurate to the grade for which selected. The promotion effective date cannot be earlier than the promotion board approval date. Antedating an effective date of promotion is prohibited, unless required by law.

4. DoDI Number 1310.01 (Rank and Seniority of Commissioned Officers) states, the Secretary of the Military Department concerned may adjust the DOR of an officer, except a general or flag officer, appointed to a higher grade under Title 10, USC, sections 624(a) or 14308(a) if the appointment of that officer to the higher grade is delayed by unusual circumstances. The Secretary of the Military Department concerned must determine that the unusual circumstance caused an unintended delay in processing or approval of the selection board report or promotion list in order for an officer's DOR to be adjusted.

//NOTHING FOLLOWS//