

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 April 2025

DOCKET NUMBER: AR20240007045

APPLICANT REQUESTS: promotion to the rank/grade of captain (CPT)/O-3 with Federal Recognition effective 23 January 2023.

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

- DD Form 149 (Application for Correction of Military Record)
- General Officer Memorandum of Reprimand (GOMOR), 23 December 2020, which shows he received the GOMOR for negligently supervising the operation of his platoons Petroleum Quality Analysis System
- Memorandum, Subject: Promotion as a Reserve Commissioned Officer of the Army, 3 February 2023, which shows he was promoted to CPT on 23 January 2023
- Special Orders Number 46 AR, 3 February 2023, which shows he was promoted to CPT on 23 January 2023
- Memorandum, Subject: Delay of Promotion and Referral to the Promotion Review Panel (PRP)/Special Selection Review Board (SSRB), 16 June 2023, which shows the [REDACTED] Army National Guard ([REDACTED] ARNG) was notified of the referral of his promotion to a promotion review panel due to adverse information

FACTS:

1. The applicant states, in pertinent part:

- He submitted his Unit Vacancy Promotion packet which took approximately one year to complete
- He received both National Guard Bureau (NGB) Form 0122E for Federal recognition and his Reserve orders for promotion to CPT
- His state Office of Personnel Management notified him, after his promotion was published, that he was to undergo a Promotion Review Board and ultimately was removed from the federal scroll leaving him as a first-time non-select
- Since he already received the promotion before the process was initiated, he believes it was not conducted in accordance with Army Regulation (AR) 600-8-29 (Officer Promotions) and therefore was conducted in error

- It is unjust to rescind his promotion and has now caused significant delay in his career advancement and creates risk for early separation
2. A review of the applicant's available service record reflects the following:
- on 5 September 2018 the NGB issued a Memorandum through the [REDACTED] ARNG for Appointment as a Reserve commissioned Officer of the Army with a retroactive effective date of 8 December 2017
  - Special Orders Number 215 was issued for retroactive Federal recognition of his initial appointment with the ARNG, effective 8 December 2017
  - On 14 January 2020, Special Orders Number 8 was issued for retroactive Federal recognition of his promotion to the rank/grade of first lieutenant (1LT)/O-2, effective 8 June 2019
  - On 23 December 2020, he received a GOMOR for negligent supervision of his platoon's Petroleum Quality Analysis System – Enhanced and for failure to adequately respond to the health issues of his Soldiers working there which led to long-term health problems for two of the Soldiers with permanent placement in his Army Military Human Resources Record
  - On 3 February 2023, Special Orders Number 46 AR was issued for retroactive Federal recognition of his promotion to the rank of CPT, effective 23 January 2023; in conjunction, the NGB issued a Memorandum for Promotion as a Reserve Commissioned Officer of the Army to the grade of CPT, effective 23 January 2023
  - On 19 January 2024, the Office of the Deputy Chief of Staff, G-1, issued a Memorandum for ARNG Federal Recognition Board Promotion Review Panel NG2304-11 Results removing him from the appointment scroll for the rank of CPT pursuant to AR 135-155 (Promotion of Commissioned Officers and Warrant Officers Other Than General Officers)
  - On 26 November 2024, Special Orders Number 463 was issued for retroactive Federal recognition revocation of his promotion to the rank of CPT
  - He continues service with the [REDACTED] ARNG
3. On 2 April 2025, the NGB, Chief, Special Actions Branch, provided an advisory opinion recommending disapproval of the applicant's request stating:
- a. The applicant commissioned into the [REDACTED] ARNG on 8 December 2017. He was promoted to 1LT on 8 June 2019. He states that he submitted a unit vacancy promotion to CPT and received a 0122E promotion to CPT with a date of rank of 23 January 2023. Maryland State OPM informed him that he would go to a Promotion Review Board (PRB), and it was determined he was a first time non select and his promotion order was revoked. He is requesting a promotion to CPT effective 23 January 2023 stating that he would not have received promotion orders if he was not cleared by the PRB.

b. After review of his submission and coordination with NGB's Federal Recognition Branch (FEDREC), it was determined that during Director Military Personnel Management screening he was referred to a PRP for derogatory information in his file. An 0122E order to CPT was erroneously produced before the PRP convened. The PRP recommended "non-retain" and the Secretary of the Army (SECARMY) approved the panel's recommendation signed 19 January 2024 in accordance with (IAW) AR135-155.

c. It is the recommendation of this office that the applicant's request be denied. He erroneously received a promotion order that was invalid due to lack of Secretary of Defense approved scroll. He was referred to a PRP due to adverse action in his file and SECARMY chose to not retain IAW AR135-155.

d. The NGB's Federal Recognition Branch concurs with this advisory opinion. The [REDACTED] ARNG was asked but did not provide input for this advisory opinion.

4. On 12 April 2025, he provided a response to the advisory stating, in pertinent part:

a. His orders promoted him to CPT effective 3 February 2023, he was pinned by his unit, and served in that rank in good faith. He had no indication that there was any issue until he received notification of a PRB on 16 June 2023. He is seeking clarification as to why promotion orders were issued if his eligibility was still under review at that time.

b. The advisory opinion states that he was under the impression that the PRB held on 11 January 2024 cleared the promotion to CPT. However, this was not his understanding. Rather, he believed that an initial review had already occurred prior to the issuance of promotion orders dated 3 February 2023. He was unaware that it was possible to undergo a PRB after promotion orders were issued, particularly since the derogatory information had already been reviewed by the Officer Selection Board and included in the Federal Recognition scroll prior to his promotion.

c. It was a deeply humiliating experience to be informed that he had to revert to wearing 1LT rank after having served as a CPT for five months. Despite this setback, he respects the Army's due process and the authority of the Army Review Boards Agency (ARBA) to make the final determination regarding the validity of his promotion. Moving forward, he remains committed to serving honorably and transparently and will treat the upcoming Department of the Army Board as an opportunity to take full ownership of his actions, including those that led to the issuance of the GOMOR and those since. He is fully dedicated to personal accountability, professional development, and continued service to the Army.

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 petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military record, the NGB, Chief, Special Actions Branch advisory opinion, the Board concurred with the advisory official recommendation for denial, finding he erroneously received a promotion order that was invalid due to lack of Secretary of Defense scroll approval.

2. The applicant was referred to a PRP due to adverse action in his file and SECARMY chose to not retain IAW AR135-155. Regulatory guidance provides the President, or their designee may remove the name of an officer in a grade above second lieutenant from a promotion list. For that reason, the Board determined that denying the requested relief was appropriate.

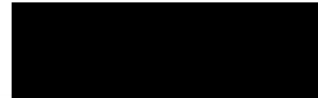
BOARD VOTE:

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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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. Army Regulation 135-155 (Promotion of Commissioned Officers and Warrant Officers Other Than General Officer), 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 USAR.

a. Paragraph 2-10e (Promotion eligibility), (1) To be considered for promotion by a selection board, a commissioned officer (other than a commissioned warrant officer) must have continuously performed service on the Reserve Active Status List, the Active Duty List, or a combination of both during the 1-year period ending on the date the board convenes. A warrant officer (to include a commissioned warrant officer) must have served continuously in an active status during the 1-year period ending on the date the board convenes. Officers under suspension of favorable personnel actions or in a non-promotable status (paragraph 4-11c) remain eligible for consideration.

b. Paragraph 3-18 (removal from a promotion list) states a report of a selection board exists after the promotion board issues a signed board report. The board report becomes a promotion list after being approved by the President or their designee. The President or their designee may remove the name of an officer in a grade above second lieutenant from a promotion list.

c. Paragraph 4-11c. An officer's promotion is automatically delayed when the officer is:

- under investigation that may result in disciplinary action of any kind being taken
- under proceedings that may result in administrative elimination or discharge under other than honorable conditions
- under, or should be under, suspension of favorable personnel actions
- recipient of a referred academic evaluation report, a referred OER, or a memorandum of reprimand

d. Defacto status states If an officer's promotion is declared void and if the authority who revokes the promotion memorandum determines that the officer had, before the declaration, accepted the promotion (for example, worn the insignia) in good faith and worked in the higher grade, then they will be deemed to have served in the higher grade in a de facto status. This period of de facto status will be from the date of the erroneous promotion until the date the officer received notice that it was void. This will allow the officer to keep any pay and allowances received at the higher grade. Service during the period of de facto status is not creditable for retirement purposes. A promoted officer who occupied the higher grade and actually discharged the functions of that grade in good faith from the date of promotion to the date notified of the invalid promotion may be deemed to have served in a de facto status.

2. Army Regulation 600-8-29 (Officer Promotions), Chapter 7-10 states an officer, 1LT or CW2 or above, whose name is removed from a promotion list is considered to have failed selection for promotion. Provided this PRB removal action does not constitute the officer's second nonselection to a higher grade, for separation purposes, the officer continues to be eligible for future consideration for promotion as applicable in statute (10 USC 614). The next regular selection board convened to consider officers for promotion to that grade and competitive category will consider the officer (if otherwise eligible). If the next board does not recommend promotion, this will constitute the officer's second nonselection.

//NOTHING FOLLOWS//