

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 January 2024

DOCKET NUMBER: AR20230001307

APPLICANT REQUESTS: in effect, correction of his records to show he is eligible for issuance of a Notification of Eligibility for Retired Pay at Age 60 (20-Year Letter) and the retirement benefits associated with it.

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

2 X DD Form 149 (Application for Correction of Military Record)

FACTS:

1. The applicant states his original pay entry basic date (PEBD) was 15 April 1987. His PEBD was changed to 23 December 1998. His Retirement Year Eligibility (RYE) was altered to 10 June 2023. The alteration of his PEBD has negatively affected his retirement by posturing him 50 days short of a 20-Year Letter. If his original PEBD of 15 April 1987 had been used, he would have attained 20 years of qualifying service.

2. Review of the applicant's service records shows:

a. He was born on XX [REDACTED] 1969 and will turn 60 in [REDACTED] 2029.

b. He enlisted in the U.S. Army Reserve (USAR) on 15 April 1987. His Retirement Year Eligibility (RYE) began on 15 April 1987. He entered active duty for training (ADT) from 27 October 1987 to 17 March 1988, completing 4 months and 21 days of active service. He was separated from the USAR on 15 April 1995.

c. After a break in service, he enlisted in the U.S. Navy Reserve (USNR) on 31 May 2005. Since he had a break in service, his new Retirement Year Eligibility (RYE) began on 31 May 2005. He was separated from the USNR on 30 March 2008. Details about his USN service are not available.

d. After another break in service, he enlisted in the Army National Guard (ARNG) on 11 June 2009. Since he had a break in service, his new Retirement Year Eligibility (RYE) now began on 11 June of each year.

e. He was discharged from his enlisted status in the ARNG on 19 March 2010 and was subsequently appointed a Reserve commissioned officer of the ARNG and executed an oath of office on 20 March 2010 (without a break in service).

f. He entered active duty for training (Ordnance Basic Officer Leader Course) from 13 September 2010 to 27 January 2011, completing 4 months and 15 days of active service.

g. He entered active duty on 6 November 2015 and served in Qatar from November 2015 to December 2016. He was honorably released from active duty on 13 January 2017 to the control of his State ARNG. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 1 year, 2 months, and 8 days of active service.

h. He was separated from the ARNG on 31 July 2017 and transferred to the U.S. Army Reserve (Individual Ready Reserve) on 1 August 2017 (also without a break in service). His Retirement Eligibility Year continued to be 11 June of each year.

i. On 4 October 2017, he transferred from the USAR Individual Ready Reserve to a USAR troop program unit.

j. On 3 March 2022, an informal physical evaluation board (PEB) convened and found him unfit for multiple medical conditions (hypertension, kidney, migraines, cervical spine). The informal PEB assigned a combined disability rating of 70% and his disposition as permanent disability retirement.

k. On 23 March 2022, the U.S. Army Physical Disability Agency published Orders 082-10 releasing him from assignment on 22 April 2022 and permanently retiring him for disability effective 23 April 2022, in the rank of CPT at a disability rating of 70%. His retirement orders listed his:

- Disability retirement: 6 years, 0 months, and 13 days (amended to 6 years and 3 months)
- Basic Pay: 23 years, 4 months, and 0 days

3. On 9 May 2023, the U.S. Army Human Resources Command wrote to the applicant's Member of Congress in response to his inquiry on behalf of the applicant regarding his request for an updated DA Form 5016, Chronological Statement of Retirement Points. HRC enclosed an updated DA Form 5106 and stated they have accounted for all points that they were able to verify in his military service record. His Anniversary/ Retirement Ending Date is correct based on his break in service. If he has additional documents in his possession that may assist HRC in verifying points not already included, they asked that he submits a signed request or a new update along with the supporting documents

to the following email address: usarmy.knox.hrc.mbx.tagd-ask-hrc@army.mil. If he still feels that an error or injustice exists with his DA Form 5016, he may apply to the ABCMR for corrective action. The applicant's updated DA Form 5016 reflects 19 years, 10 months, and 14 days of qualifying service.

4. By law and regulation, members and former members of the RC that are authorized retired pay at age 60 must have completed a minimum of 20 qualifying years of service. After 1 July 1949, a RC Soldier must have earned at least 50 retirement points per year for that service to be creditable for retirement.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. The Anniversary Retirement Year date is the annual date that a Soldier's Retirement Accounting Statement is closed out. It is utilized when referring to retirement points accounting. The anniversary year periods listed on the DA Form 5016 are calculated from an anniversary date. The date to determine the anniversary year is established by the date the Soldier entered into active service or into active status in a reserve component. The start date (month and day) for each successive anniversary year will not be adjusted unless the Soldier has a break-in-service or is removed from an active service or active status in a reserve component. A break-in-service or removal from an active service/active status in a reserve component occurs only when a Soldier transfers to an inactive status list, inactive National Guard, or is discharged to civilian life for longer than 24 hours. If a break-in-service in excess of 24 hours occurs, and the Soldier rejoins a service component, a new Anniversary Year Ending is established on the date that Soldier returns to an active reserve status or regular component.

b. The evidence shows the applicant in this case served in multiple components of the armed forces, with breaks in service. Whenever he had a break in service, his Anniversary/Retirement Ending Date was adjusted to account for that break. In March 2022, an informal PEB found him unfit for multiple medical conditions. The PEB assigned a combined disability rating of 70% and his disposition as permanent disability retirement. He retired on 22 April 2022.

c. The U.S. Army Human Resources Command audited his retirement points and accounted for all points that they were able to verify in his military service record. HRC also indicated that his Anniversary/ Retirement Ending Date is correct based on his break in service. By law and regulation, members and former members of the RC that are authorized retired pay at age 60 must have completed a minimum of 20 qualifying years of service. After 1 July 1949, a RC Soldier must have earned at least 50

retirement points per year for that service to be creditable for retirement. The applicant did not complete 20 qualifying years of service towards non-regular retirement. Therefore, the Board determined he does not qualify for issuance of 20-Year Letter.

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.



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, U.S. Code, sections 12731 through 12740 authorize retired pay for Reserve Component military service. Under this law, a Reserve Soldier must complete a minimum of 20 qualifying years of service to be eligible for retired pay at age 60. Section 12731 states a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person has attained the eligibility age applicable under the appropriate subsection and has performed at least 20 years of service computed under section 12732 of this title.

2. Army Regulation 135-180 (Retirement for Non-Regular Service) prescribes policies and procedures governing non-regular retirement. After 30 June 1949, a Reservist must earn a minimum of 50 retirement points each retirement year to have that year credited as qualifying service. Only Soldiers assigned to an active status in a RC or individuals in active Federal service are authorized to earn retirement point credits. When a person is in an active status for a period less than a full retirement year, a minimum number of retirement points are required to be earned to have that period credited as qualifying service.

3. Army Regulation 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Record) sets responsibilities and procedures to retirement records prescribing the types of training and activities for which retirement points are authorized. The criteria for establishing the service requirement for a satisfactory year of service for non-regular retirement per DODI 1215.07 and changing the anniversary year ending date are as follows:

a. The full-year periods used for the crediting of qualifying years for non-regular retirement must be based on the anniversary years. Anniversary year periods are calculated from an anniversary date. The anniversary date is the date the service member entered into active service or active status in a RC.

b. The month and day for each successive anniversary year will not be adjusted unless the service member has a break in service. A break in service occurs only when a member transfers to an inactive status list, the inactive National Guard, a temporary disability retired list, the Retired Reserve, or is discharged for longer than 24 hours. There will not be a break in service if the service member transfers directly to another active component or RC. When a service member with a break in service returns to an active Reserve status or to active service, the revised anniversary year start date will be the date of return or reentry.

//NOTHING FOLLOWS//