

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 August 2024

DOCKET NUMBER: AR20230002004

APPLICANT REQUESTS: correct the total of years of service in the Army National Guard (ARNG) from “18 years” to “21 years,”

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

- DD Form 149 (Application for Correction of Military Record)
- Request for Reserve Component Assignment or Attachment
- DA Form 2166-8 (Noncommissioned Officer Evaluation Report) (1st page)
- Primary Leadership Development Course (PLDC) diploma
- DA Form 2-1 (Personnel Qualification Record) (page 1)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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, in effect, he was supposed to have retired after 21 years, but when inquiring about retirement, he was told he only had a total of 18 years. He attended noncommissioned officer (NCO) school during those two years, while still serving. He has the certificates from the NCO school, which reflects the dates that he attended as evidence since records were destroyed in approximately 1985.
3. The applicant provides:
  - a. Request for Reserve Component Assignment or Attachment, dated 24 September 1984, reflects he submitted a request for a voluntary assignment to the U.S. Army Reserve Control Group (Reinforcement) under the provisions of Army Regulation (AR) 140-10 (Army Reserve – Assignments, Attachments, Details, and Transfers), paragraph 2-19a(1).
  - b. DA Form 2166-8 (1st page), covering the period of 5 June 2008 through 4 August 2008, Reason for Submission: 60-day option.

c. PLDC diploma, which reflects he successfully completed the course for Reserve Components conducted by 2078th U.S. Army Reserve School, Columbus, OH, 19 May 1980.

d. DA Form 2-1 (Personnel Qualification Record) (page 1) that contains his Civilian Education and Military Schools. This page does not contain the applicant's name, nor his signature for validation.

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

a. The applicant enlisted in the Regular Army on 10 August 1976 and he was honorably release from active duty on 9 June 1979, after completing 3 years of active service.

b. He enlisted in the Ohio Army National Guard (OHARNG) for a term of six (6) years as a prior service member on 8 February 2001.

c. In November 2005, he transferred to the SCARNG. He extended his enlistment by 6 years in February 2007.

e. He was flagged for APFT (Army Physical Fitness Test) failure in September 2007.

f. He entered active duty on 5 June 2008, and he served in Iraq from August 2008 to May 2009. He was honorably released from active duty on 18 June 2009 after completing 1 year and 14 days of active service.

g. He was honorably discharged from the ARNG on 29 March 2012. His NGB Form 22 (report of Separation and Record of Service) shows he was discharged in accordance with National Guard Regulation 600-200 (Enlisted Administrative Separations), paragraph 6-35c(1), dependency or hardship. He served 6 years, 4 months, and 28 days of net service this period; 10 years, 7 months, and 6 days prior Reserve Component service; and 3 years, 1 month, and 18 days of prior Active Federal Service. His NGB Form 22 shows:

- he completed 20 years, 1 month, and 2 days total service for pay
- he completed 12 years and 14 days of qualifying service towards non-regular retirement at age 60

h. The applicant's NGB Form 23, ARNG Statement of Retirement Points, is not available for review.

5. National Guard Bureau advisory opinion, dated 7 November 2023, recommends disapproval and further states:

a. The Soldier requests that his NGB 23a be corrected to reflect 21 years of creditable service for retired pay. Soldier claims he currently has 18 years of service, and that there are missing time gaps which would provide him with the missing two years that would allow him to reach 20 years of creditable service, and therefore could retire at the age of 60.

b. Soldier was discharged from the Army National Guard on 29 March 2012, due to dependency or hardship affecting the Soldier's immediate family IAW NGR 600-200, para 6-35c (1). The Soldier's Report of Separation and Record of Service (NGB 22) dated 29 March 2012 shows that the applicant had 20 years of total service for pay, but only 12 years of total service for retired pay at the time of his discharge.

c. A review of the of the Soldier's claim by the South Carolina Army National Guard, and the Army National Guard Retirement Section concluded that the Soldier only had 12 years, and 14 days of creditable service for retired pay, and not the 18 years he claimed on his ABCMR.

d. It is the opinion of this office in coordination with the South Carolina Army National Guard, and the Army National Guard Retirement section, that the applicant only had 12 years, and 14 days of creditable service for retired pay at the time of his discharge, and that there are no additional records that grant him the needed 8 years of creditable service to make him retirement eligible.

e. The South Carolina Army National Guard, and the Army National Guard retirement section was consulted in the recommendation of this ABCMR.

5. The applicant was notified of the advisory opinion provided by the National Guard Bureau. He was afforded the opportunity to submit comments on the advisory opinion; however, as of the date of this writing, none have been received.

#### 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. By law and regulation, Reserve Component Soldiers are required to complete 20 qualifying years of service (at least 50 retirement points per year) in order to qualify for retired pay at age 60. The applicant in this case did not complete 20 qualifying years. The applicant was discharged due to hardship. At the time of his discharge, he had completed 12 years and 14 days of qualifying service; he had not yet completed sufficient service to

qualify for continued service under the provisions of Title 10, U.S. Code, section 12646, for the purpose of becoming eligible for retirement. The Board found no evidence of errors in the calculation of his service that would support a recommendation for relief and agreed with the NGB advisory that based on the preponderance of the evidence, the Board found no error or injustice.

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.

[REDACTED]

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[REDACTED]

[REDACTED]

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, 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. DOD Instruction 1215.07, Service Credit for Non-Regular Retirement states in paragraph 3-1(a), Qualifying Years of Satisfactory Service. Pursuant to Chapter 1223 of Title 10, U.S.C., a qualifying year of creditable service toward a non-regular retirement is a full year, as described in Paragraphs 3.1.b. and 3.1.c., during which a member of an Active Component (AC) or Reserve Component (RC) is credited with at least 50 retirement points. Accumulating 20 such years, except as otherwise provided by law, is one requirement necessary to qualify for nonregular retired pay. Retirement point credit depends on the activity performed and include (but not limited to).

a. Active Service. Credit active service at the rate of one retirement point per day of active service in the uniformed services as defined in Section 101 of Title 10, U.S.C.

b. Inactive Duty Service. Credit inactive duty service as follows: One retirement point for each attendance at an inactive duty training (IDT) period or period of equivalent instruction; One retirement point for each attendance at a period of equivalent training in accordance with Paragraph 2.a.(1) of DoDI 1215.06; and a maximum of two retirement points for attendance at IDT periods, or equivalent training, in any 1 calendar day.

c. Several other situations or activities also qualify for retirement points.

//NOTHING FOLLOWS//