

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 January 2024

DOCKET NUMBER: AR20230003296

APPLICANT REQUESTS: correction of his pay records as follows:

- Payment of Basic Allowance for Housing (BAH-I) for the period October 2004 to March 2005 for attendance at the Signal Officer Basic Course
- Correction of his retirement points for his first 11 years of troop program unit (TPU) enlisted time, as he is confident that he met/meets the requirements for payment at the grades of O-1E-O-3E

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

- DD Form 149 (Application for Correction of Military Record)
- Leave and Earnings Statements, 1993 to 2004
- DD Form 214 (Certificate of Release or Discharge from Active Duty), October 2004 to March 2005
- Orders to active duty for training, 16 September 2004

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 he has attempted fixing since and throughout and hit every roadblock. He believes he has all documents now, but now issues are extremely old, and support has told him this is the only avenue left. As for the 152 day order, Fort Gordon told him despite being that long on the order, it didn't qualify because it included holidays. Yes, this was a face to face quote. He now has orders, DA Form 1059 (Service School Academic Evaluation Report), DD Form 214, and DFAS (Defense Finance and Accounting Service) pay record for that period. As for the retirement points, he still has not been able to fix to meet 1460 requirement. He now has collected the DFAS pay sheets for 1993-2004.
3. Review of the applicant's service records shows:

a. He enlisted in the U.S. Army Reserve on 7 October 1993. He reenlisted and/or extended multiple times. He also entered active duty multiple times, including July 1997 to March 1998 and October 2002 to October 2003.

b. He was separated from the U.S. Army Reserve as an enlisted Soldier on 10 January 2004 for the purpose of accepting an appointment.

c. He executed an oath of office on 11 January 2004 and was appointed a Reserve commissioned officer of the Army in the grade of second lieutenant.

d. He entered active duty for training on 25 October 2004 and completed the Signal Officer Basic Course. He was honorably released from ADT on 25 October 2004. He was issued a DD Form 214 capturing his 5 months and 1 day of active service.

e. He was advanced to first lieutenant on 10 January 2006, to captain on 24 February 2009, to major on 1 June 2013, and to lieutenant colonel on 1 August 2019.

f. He served in a variety of assignments, including active duty service and/or mobilizations from November 2007 to November 2008, November 2010 to January 2012, and February to September 2014.

g. On 13 November 2015, the U.S. Army Human Resources Command issued him a Notification of Eligibility for Retired Pay at Age 60 (20-Year Letter).

4. Two advisory opinions were received in the processing of his case:

a. On 25 September 2023, the U.S. Army Human Resources Command (HRC) responded to his request for review and correction to his retirement points to determine if he qualifies for OE pay. The HRC official opined:

(1) In accordance with Department of Defense Financial Management Regulation Volume 7A, paragraph 2.3.1.5., Creditable Service for Certain Reserve Commissioned Officers, effective January 1, 2002, commissioned officers in pay grades 0-1, 0-2, and 0-3 who are paid from funds appropriated for Reserve personnel and credited with 1,460 points for retirement computed under 10, U.S. Code, 12732(a)(2) for service as a warrant officer and/or enlisted member are entitled to the special rate of basic pay for pay grade 0-1 E, O-2E, or O-3E.

(2) HRC reviewed the application and requested administrative relief. Per the source documents provided, an additional 8 Active-Duty points were awarded. The applicant's retirement points now reflect 1,264 points earned as an enlisted member on the enclosed DA Form 5016 (Retirement Accounting Statement). The record does not

indicate that he met the 1,460-retirement point threshold to qualify for the special rate of basic pay for OE pay.

b. On 12 October 2023, the Deputy Chief of Staff, G-1 responded to his request for Basic Allowance for Housing (BAH). The G1 official opined:

(1) After careful review of the information provided in the application, the G-1 recommends the Board disapprove his request for administrative relief. He is requesting an entitlements determination to receive BAH rather than a change to his military record. The applicant's servicing Reserve Component Military Pay Office is the appropriate agency to perform an audit on his pay account.

(2) Per the 2004 version of the Department of Defense Financial Management Regulation, Volume 7A, Chapter 57, if a Reserve Component member is called to active duty for training, the place where the training duty is being performed is deemed to be the permanent station of the member for BAH entitlement purposes. The BAH rate payable is prescribed in Chapter 26, Table 26-9. Since the applicant was a member without a dependent assigned to government quarters during the period of training in question, the appropriate BAH rate he is authorized to receive is BAH-Partial.

5. The applicant was provided with copies of each advisory to give him an opportunity to submit a 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 relief was not warranted. The Board carefully considered the applicant's request, supporting documents, and evidence in the records. Documentation available for review shows that the HRC reviewed the applicant's request and determined he was due 8 additional points. After correction, his total retirement points now reflect 1,264. Further review by the Board did not reveal additional documentation to support that the applicant met the retirement point threshold to qualify for the special rate of basic pay for OE pay.

2. The Board further considered the applicant's request pertaining to entitlement to BAH. In accordance with the DoD Financial Management Regulation applicable to October 2004 to March 2005, the applicant is requesting entitlement to receive BAH rather than a change to his record. As such, the Board can take no action on the request and recommends the applicant contact his servicing Reserve Component Military Pay Office and request an audit of his pay account. After due consideration of the applicant's request, the Board determined the evidence presented does not meet the burden of proof in determining the existence of an error or injustice and a recommendation for relief is not warranted.

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 Board determined 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 and a correction to his Basic Housing Allowance or retirement points is not warranted.

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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. Department of Defense Financial Management Regulation Volume 7A, paragraph 2.3.1.5., Creditable Service for Certain Reserve Commissioned Officers, effective January 1, 2002, commissioned officers in pay grades 0-1, 0-2, and 0-3 who are paid from funds appropriated for Reserve personnel and credited with 1,460 points for

retirement computed under 10, U.S. Code, 12732(a)(2) service as a warrant officer and/or enlisted member are entitled to the special rate of basic pay for pay grade O-1 E, O-2E, or O-3E.

3. Basic Allowance for housing (BAH) is an allowance to offset the cost of housing when a service member does not receive government-provided housing. BAH depends upon location, pay grade and whether the member has dependents. BAH rates are set by surveying the cost of rental properties in each geographic location. BAH rates are published on the Defense Travel Management Office Web page.

a. Partial BAH: A member without dependents who is living in government quarters is entitled to a Partial BAH.

b. BAH Reserve Component/Transit (BAH RC/T) BAH RC/T is a non-locality housing allowance for members in particular circumstances, for example, reservists on active duty for 30 or fewer days. It also applies when a member is in transit from selected areas where no prior BAH rate exists (such as overseas). It does not vary by geographic location. BAH RC/T was set based on the old Basic Allowance for Quarters (BAQ), which was based on the national average for housing. BAH RC/T is published annually and is determined by increasing the previous year's rates by the national average percentage growth of housing costs.

c. BAH-Differential (BAH-Diff): BAH-Diff is the housing allowance amount for a member who is assigned to single-type quarters and who is authorized a basic allowance for housing solely by reason of the member's payment of child support. A member is not entitled to BAH-Diff if the monthly rate of that child support is less than the BAH-Diff. BAH-Diff is determined by the SECDEF and was equal to the difference between BAQ with dependents and BAQ without dependents in 1997 for the member's grade. BAH-Diff is published annually and is determined by increasing the previous year's rates by the percentage growth of military basic pay. For more information contact your finance office.

d. BAH With Dependents and BAH Without Dependents: A member with permanent duty within the 50 United States, who is not furnished government housing, is eligible for Basic Allowance for Housing (BAH), based on the member's dependency status at the permanent duty ZIP Code. A member stationed overseas, including U.S. protectorates, who is not furnished government housing, is eligible for Overseas Housing Allowance (OHA) based on the member's dependency status. If a member is serving an UNACCOMPANIED overseas tour, the member is eligible for BAH at the "with dependents" rate, based on the dependent's US residence ZIP Code, plus OHA at the "without dependents" rate, if the member is not furnished government housing overseas.

e. Department of Defense Financial Management Regulation, Volume 7A, Chapter 57, if a Reserve Component member is called to active duty for training, the place where the training duty is being performed is deemed to be the permanent station of the member for BAH entitlement purposes. The BAH rate payable is prescribed in Chapter 26, Table 26-9. If the member is without a dependent and is assigned to government quarters during the period of training in question, the member is authorized BAH-Partial.

//NOTHING FOLLOWS//