

IN THE CASE OF: ██████████

BOARD DATE: 25 January 2024

DOCKET NUMBER: AR20230003967

APPLICANT REQUESTS: in effect –

- retirement points earned for U.S. Army Reserve (USAR) service from 9 April 1982 to 8 April 1988
- issuance of Notification of Eligibility (NOE) for Retired Pay at Age 60 (20 Year Letter)
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant's statement
- DA Form 2-1 (Personnel Qualification Record - Part II)
- Extract showing service connected disability rating of 90 percent
- DD Form 4 (Enlistment/Reenlistment Document - Armed Forces of the United States), 9 April 1982
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 14 October 1982
- Orders Number D-04-029992, 6 April 1988
- DD Form 214, 28 September 2009
- Orders Number 355-0293, 20 December 2012
- DD Form 214, 10 January 2013
- DD Form 214, 9 January 2021
- Requests to Defense Finance and Accounting Service (DFAS) for Leave and Earnings Statements (LES)
- REDD Report, 15 June 2022
- Email communication, July 2022
- 135th Chemical Company Memorandum - Subject: Expiration Term of Service (ETS) Waiver Request for [applicant], 7 July 2022
- Request Pertaining to Military Records, 8 July 2022
- Email communication, 8 July 2022
- DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), 13 July 2022

- National Guard Bureau (NGB) Form 23A (Army National Guard (ARNG) Current Annual Statement), 27 February 2023
- [REDACTED] Army National Guard (ARNG) Memorandum - Subject: Extension Waiver for [applicant], 3 August 2022
- NGB Form 23B (ARNG Retirement Points History Statement), 27 February 2023

FACTS:

1. The applicant states:

a. He is respectfully requesting through the Board, based on all of the supporting documentation enclosed, to please assist him in accepting his five missing years of creditable service for military retirement pay to add to his NGB Form 23 statement, so he is not walking away from the military after giving over 21 years of service and receiving zero retirement pay and benefits. He has been serving honorably and proudly for the [REDACTED] ARNG from 9 May 2007 to the present.

b. He has served his country by deploying overseas three times during the conflicts; first to Afghanistan 29 September 2008 to 28 September 2009, second to Kuwait 11 February 2012 to 10 January 2013, and thirdly to Kuwait 23 January 2020 to 9 January 2021. He served in the U.S. Army Reserve (USAR) from 9 April 1982 to 8 April 1988 with the 822nd Military Police Company, which is now deactivated and/or disbanded. He actively served all eight (8) years of his enlistment in the USAR, and was discharged honorably, see enclosure Discharge Orders Number D-04-029992, dated 6 April 1988, with an honorable discharge, effective 8 April 1988.

c. He is currently 61 years of age and will turn 62 years of age November 2023. He currently has 20 years of creditable service, 21 years of service effective 8 May 2023. However, all military agencies and ARNG levels he has gone through requesting assistance into this matter such as the [REDACTED] ARNG Retirement Points Account Management (RPAM) Noncommissioned Officer in Charge (NCOIC) who then reached out to the NGB Warrant Officer/Subject Matter Expert in the Retirement Services Section, and finally they reached out to the Deputy Retirement Services Officer for Gray Area Retirement with no luck of finding proof of participation or duty performed which would allow a DA Form 5016 (Chronological Statement of Retirement Points) or ARPC Form 249 (Chronological Statement of Retirement Points) to be produced for the period of service in question.

d. He has been diligently working for over three years to locate documentation that proves his active status showing he was in attendance and showing participation for which he received retirement points (DA Form 2016 or ARPC Form 249) and/or he was paid through an LES each of those years, 1982 to 1988. With his ongoing efforts to go down every avenue to find these records, as he mentioned in an earlier paragraph, he

completed and submitted an Exception to Policy (ETP) Extension Request twice, both approved by the ■ ARNG Adjutant General (TAG), with the last ETP Extension Request requesting to extend past the age of 61 in 2022. Please see approved ETP Extension Request from the ■ ARNG TAG. With this one-year extension approved, it has allowed him to actively stay in the military and continue to search all avenues to prove his missing creditable service retirement pay years in the USAR.

e. He submitted proof of his efforts to the ■ ARNG TAG to make the awareness that he fell short of a 20-year retirement due to missing creditable service years for retirement pay. His efforts include submitting a request through the National Archives Center with no luck of the required attendance sheets such as the DA Form 5016 or ARPC Form 249, however, they did provide service documents such as the DD Form 4/1 and DD Form 214 from his Basic Training and Advanced Individual Training (AIT), as well as his Honorable Discharge order he spoke about in an earlier paragraph. He also submitted three requests to DFAS for LES's for that time-period in question which they could only provide LES's for 9 April 1982 to 8 April 1983 that showed proof of active attendance and participation, which in turn allowed the ■ ARNG's RPAM Retirement Services Officer to add those years of service to his NGB Form 23 statement.

f. Please see enclosures requesting the documents those agencies provided from their record keeping. Please see enclosure of his most updated/current NGB Form 23A and NGB Form 23B. It reflects that by 8 May 2023; he will only have a total of 16 years of Creditable Service for Retirement Pay. His service in the USAR listed on his NGB Form 23 does not reflect his creditable service years from 9 April 1983 to 8 April 1988. If he had the five years that are missing from his Retirement Points Accounting System (RPAS) NGB Form 23, he would essentially have 21 years of creditable service as of 8 May 2023 and he could then retire with pay and benefits. Additionally, he is now receiving 90 percent Department of Veterans Affairs (VA) disability pay and they even acknowledge his 20 plus total years of military service. His current LES states 21 years of service. Please see enclosures of his most current LES and his certification of VA disability. His Expiration Term of Service (ETS) is 8 August 2023.

g. He is now working on his third ETP extension request packet, but this time it must be approved at the NGB level for him to stay in another year past 62 years of age. He thought he was eligible to retire after his last deployment in 2021 because his LES was stating he had 21 years of service. Then he found out he only had 16 good years at the time. Apparently, they were not counting his USAR time, of which he was unaware. As he stated he went to the National Archives and received a copy of his full contract along with his DD Form 214 and discharge order. He also received a letter from DFAS stating he was in from 1982 to 1988 but could not prove the pay/participation for five of those six years.

h. He contacted DFAS after waiting over six months stating they could not find proof of pay and they had exhausted all their time and resources to locate his LESs. He has served his country for 21 years and deployed three times. All he wanted is to retire with honors that he deserves. He is proud to wear his uniform and serve his country. Trying to retire has been so stressful. He is not asking for a handout. He just wants what he has earned and is entitled to. Being in the Army and serving his country is the proudest accomplishment he has done, not to think of the hardship his wife and children have had to go through without their father. He is attaching copies of all the items to prove his service. He respectfully requests the Board's assistance into this matter, and he hopes that this will be the answer to receiving his five years of creditable service for retired pay and he can move forward into retirement and the next chapter of his life with his family.

2. A review of the applicant's military records shows the following:

a. On 9 April 1982, DD Form 4 shows he enlisted in the USAR for 6 years. His date of birth is shown as [REDACTED].

b. DD Form 220 (Active Duty Report) shows he entered active duty on 28 April 1982 under the authority of Orders Number 71-16 while assigned to the 822nd Military Police Company.

c. On 9 August 1982, Headquarters, U.S. Army Training Center and Fort Dix, published Orders Number 221-126, which awarded the applicant military occupational specialty 63B10 (Light Wheel Vehicle Mechanic), effective 30 August 1982.

d. On 14 October 1982, DD Form 214 shows he was released from active duty for training and transferred to his USAR unit in Chicago, IL. He completed 5 months and 17 days net active service this period.

e. His record contains multiple Letters of Instruction - Unexcused Absence from the commander of the 822nd Military Police Company, Chicago, IL, notifying him that attendance records show he was absent from scheduled unit training assemblies or multiple unit training assemblies on 13 March 1983, 9-10 April 1983, and 14-15 May 1983.

f. On 18 May 1983, the 822nd Military Police Company published Orders Number 5-2, which reduced the applicant from the rank/grade of private/E-2 to private/E-1, effective 15 May 1983. The orders authority is shown as paragraph 3-38d(2), Army Regulation (AR) 140-158 (Enlisted Personnel Classification, Promotion, and Reduction) and AR 140-10 (Assignments, Attachments, Details, and Transfers).

g. On 15 June 1983, Headquarters, 300th Military Police Prisoner of War Command, Inkster, MI, published Orders Number 26-9, which released the applicant

from the 822nd Military Police Battalion for "unsatisfactory participation" and assigned him to the USAR Control Group (Annual Training), effective 15 May 1983.

h. Orders Number D-04-029992 published by the USAR Personnel Center, St. Louis, MO, honorably discharged the applicant from the Ready Reserve, effective 8 April 1988.

i. On 9 May 2007, DD Form 4 shows the applicant enlisted in the ■ ARNG. He has served continuously in the ARNG through extensions and is currently serving in the ■ ARNG.

j. On 31 January 2022, a memorandum shows the TAG ■ ARNG approved the applicant's waiver request for retention beyond age 60 with a new ETS date of 8 August 2022.

k. NGB Form 23A prepared on 9 May 2023, shows in pertinent part, for the period of 9 April 1982 to 8 April 1988, he earned 1 year of creditable service for retired pay. It also shows he earned a total of:

- 1,587 – active duty points
- 2,496 – total career points
- 2,496 – total points for Retired pay
- 17 – years creditable service for Retired pay

l. On 31 July 2023, DA Form 4836 shows the applicant extended for a period of 6 months which changed his ETS date to 8 February 2024.

m. DA Form 5016 dated 16 January 2024 shows no retirement points earned.

3. The applicant provides:

a. DA Form 2-1 which shows assignment, training, personal, and personnel data.

b. Extract showing service-connected VA disability rating of 90 percent.

c. DD Form 214 ending on 28 September 2009, which shows he entered active duty on 29 September 2008 in support of Operation Enduring Freedom and was honorably released from active duty and transferred to his ARNG unit on 28 September 2009.

e. Orders Number 355-0293 dated 20 December 2012, which show he was released from active duty, effective 10 January 2013.

f. DD Form 214 ending on 10 January 2013, which shows he entered active duty on 11 February 2012 in support of Operation Enduring Freedom and was honorably released from active duty and transferred to his ARNG unit on 10 January 2013.

g. DD Form 214 ending on 9 January 2021, which shows he entered active duty on 23 January 2020 in support of Operation Enduring Freedom (Spartan Shield) and was honorably released from active duty and transferred to his ARNG unit on 9 January 2021.

h. Multiple requests to DFAS for LESs showing his USAR pay and participation during the period of April 1982 to April 1988. DFAS was unable to provide any additional documentation for his USAR service.

i. REDD Report dated 15 June 2022, which shows the applicant's military service periods, personal data and ASVAB scores. It also shows his USAR service from 9 April 1982 through 8 April 1988.

j. Email communication in July 2022, which shows the applicant's ■ ARNG chain of command discussing his unverified USAR service and age 60 extension waiver.

k. Commander, 135th Chemical Company Memorandum - Subject: ETS Waiver Request for [applicant], dated 7 July 2022, recommending approval of a one year extension waiver for the applicant, in order for him to achieve 20 years total of qualified service towards retirement.

l. Requests to the National Archives dated 8 July 2022 for the applicant's DD Forms 214, official military personnel files, retirement points history statements including DA Form 5016, DA Form 249, and ARPC Form 249.

m. Email communication dated 8 July 2022, which shows the ■ ARNG Retirement Services Officer/Benefits Center NCOIC requested copies of the applicant's LESs from DFAS.

n. DA Form 4836 dated 13 July 2022, which show the applicant extended for 1 year and changed his ETS date to 8 August 2023.

o. NGB Form 23A prepared on 27 February 2023, which shows at the time the applicant earned a total of 16 years creditable service for Retired pay.

p. ■ ARNG Memorandum - Subject: Extension Waiver for [applicant], dated 3 August 2022, which shows the Military Personnel Officer (G-1) approved the applicant's waiver to extend in the ■ ARNG for 1-year with a new ETS date of 8 August 2023.

q. NGB Form 23B prepared on 27 February 2023, which shows at the time the applicant earned a total of 16 years of creditable service for retired pay.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted.

2. The applicant has requested, in effect, correction of his record to show additional “good years” (i.e., retirement years in which he earned 50 or more retirement points) during his period of service in the USAR. The Board found the record clearly shows why he did not complete more than one good year while serving in the USAR. He began accumulating unexcused absences from unit assemblies and as a result was transferred out of his USAR unit into a non-drilling status in the Ready Reserve where he only earned membership points. The Board found no evidence of error in the recording of his retirement points while serving in the USAR. Therefore, the Board determined there is no basis for changing his record of USAR retirement points.

3. The applicant has not completed the service required by law to be eligible for non-regular retired pay. Therefore, the Board determined the evidence does not support issuing him a notification of eligibility for retired pay based on his Reserve Component service.

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.

4/24/2024

X 

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, it states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR will decide cases based on the evidence of record. The ABCMR is not an investigative agency. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 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. AR 135-178 (Enlisted Administrative Separations) prescribes policies, standards, and procedures to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of Army National Guard of the United States (ARNGUS) and USAR enlisted Soldiers. Chapter 14 (Separation for Other Reasons), paragraph 14-1c (Attainment of maximum allowable age) states, a Soldier who attains age 60 as set forth in AR 140–10, as appropriate, unless granted a waiver, will be discharged or, if eligible and the Soldier applies, be transferred to the Retired Reserve. The discharge will be effective the last day of the month in which the Soldier attains age 60.

3. AR 140-185 (Training and Retirement Points Credits and Unit Level Strength Accounting Records) contains Army policy for USAR training and retirement point credit. Paragraph 1-7 (Service requirement for a satisfactory year of service for non-regular retirement) states a qualifying year of service for non-regular retired pay is a full year

during which a RC member is credited with a minimum of 50 retirement points. Except as otherwise provided by law, an accumulation of 20 such years is one requirement necessary to qualify for non-regular retired pay.

4. AR 135-180 (Retirement for Non-Regular Service) implements statutory authorities governing the granting of retired pay for non-regular service to Soldiers in the ARNG, ARNGUS or the USAR. In pertinent part, the regulation states in:

a. Paragraph 2-2 (Basic qualifying service requirements), to be eligible for retired pay at or after the age specified in paragraph 2-1 (Age requirements), an individual need not have military status at the time of application, but must have completed one of the following –

(1) A minimum of 20 years of qualifying service computed under Title 10, United States Code (USC), section 12732 (Entitlement to retired pay); or

(2) Fifteen years of qualifying service, and less than 20, computed under Title 10, USC, section 12732, if the individual is to be separated because the Soldier has been determined unfit for continued Selected Reserve service, and none of the conditions in Title 10, USC, section 12731b(b) (Age and service requirements) exist.

b. Paragraph 2-4 (Notification of Eligibility for Retired Pay at Age 60 (20 Year Letter)) states, under Title 10, USC, section 12731a, Reserve Component Soldiers who complete the eligibility requirements in section I (Age and Service Requirements) will be notified in writing within 1 year after completion of the required service in accordance with AR 140-185 or National Guard Regulation 680-2 (Automated Retirement Points Accounting Management). The Notification of Eligibility for Retired Pay at Age 60 (20 Year Letter) will be issued to Soldiers credited with 20 years of qualifying service and should be issued prior to discharge or transfer to the Retired Reserve. The NOE for Retired Pay at Age 60 (20 Year Letter) will be issued by the U.S. Army Human Resources Command for all USAR Soldiers except for those who are within 2 years of qualifying for an active duty retirement and can remain on active duty to complete the required service. The NOE for Retired Pay at Age 60 (20 Year Letter) will be issued in the format determined by HRC.

c. Paragraph 2-5 (Notification of Eligibility for Retired Pay (15 Year Letter)) states, under Title 10, USC, section 12731b, Reserve Component Soldiers in an active status who are covered by paragraph 2-2b and have at least 15, and fewer than 20 years of qualifying service, will be issued the NOE for Retired Pay (15 Year Letter). The NOE for Retired Pay (15 Year Letter) will be issued by HRC for USAR Soldiers. The NOE for Retired Pay (15 Year Letter) will be issued in the format determined by HRC. Paragraphs 2-4b through 2-4bd apply to the NOE for Retired Pay (15 Year Letter).

//NOTHING FOLLOWS//