

IN THE CASE OF: ██████████

BOARD DATE: 7 February 2024

DOCKET NUMBER: AR20230004522

APPLICANT REQUESTS: correction of his DA Form 5016 (Retirement Accounting Statement) to reflect he was awarded non-paid points for duty performed 17 through 21 July 2008.

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

- DD Form 149 (Application for Correction of Military Record) (hardcopy)
- DD Form 149 (on-line)
- DA Form 1380 (Record of Individual Performance of Reserve Duty Training)
- Civil Affairs Africa Memorandum, Subject: Letter of Lateness for DA Form 1380 for Points Only Submission

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 requests his DA Form 5016 be corrected to award his retirement points for duty performed during the period of 17 through 21 July 2008 for duty which he was not compensated for with pay. He discovered the error in his retirement points during a periodic records review during the transition from a legacy system to the Integrated Personnel and Pay System-Army (IPPS-A).

He enlisted in the Delayed Entry Program on 15 July 2008 and was assigned to Headquarters and Headquarters Company, 200th Military Police Command. During a 14-day period the unit was conducting annual training where he attended as a pre-Basic Combat Training Soldier, he conducted administrative support activities, logistical support, Army Physical Fitness Training familiarization, mess duty, and supported the G-3 administrative activities. The duty was approved by his commander for which he provided a signed DA Form 1380 from a senior commissioned officer that was present during the training period.

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

a. The applicant enlisted in the U.S. Army Reserve on 15 July 2008. The applicant had continuous service through extensions or reenlistments.

b. The applicant was ordered to active duty for training on 30 June 2009. He was honorably released from active duty on 11 December 2009. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed 5-months and 12-days of active service.

c. On 19 December 2012, Orders Number 12-354-00029, issued by Headquarters, 99th Regional Support Command, the applicant was transferred from the 200th Military Police Command to the 310th Engineer Company, effective 1 January 2013.

d. On 27 July 2022, Orders Number UT-208-0003, issued by Headquarters, U.S. Army Civil Affairs and Psychological Operations Command, the applicant was ordered to active duty in support of Operation Enduring Freedom – Horn of Africa, effective 2 December 2022.

e. DA Form 5016 dated 13 August 2023, shows that during the anniversary year 15 July 2008 through 14 July 2009 the applicant was awarded 14 inactive duty training points, 15 membership points, and 16 active duty points for a total of 45 creditable points.

f. On 3 October 2023, Orders Number T-10-322121, issued by the U.S. Army Human Resources Command, the applicant was ordered to active duty for operational support for Reserve component, effective 9 October 2023.

g. The applicant was honorably released from active duty on 8 October 2023. DD Form 214 shows the applicant completed 10-months and 7-days of active service.

4. The applicant provides:

a. DA Form 1380 dated 14 March 2023 which shows the applicant performed 4-hours of duty each day for the period of 17 through 21 July 2008 for points only where he conducted administrative duties, staff meetings, developed Army Physical Fitness Training plan in support of Troop Program Units activities, and supported G-3 administrative readiness activities. The DA Form 1380 was signed on 6 April 2023 by L-C-, Deputy J-9, U.S. Cyber Command as the officer who had knowledge, he performed the duty.

b. Civil Affairs Africa Memorandum, Subject: Letter of Lateness for DA Form 1380 for Points Only Submission dated 15 March 2023 signed by the applicant stated

Sergeant First Class A- W- (the applicant) submitted his DA Form 1380 late due to improperly completing the forms during the earlier submission.

5. On 29 September 2023, in the processing of this case, the U.S. Army Reserve Command, provided an advisory opinion regarding the applicant's request to be awarded 5 retirement points. The advisory official stated upon review of the application and supporting documents, the applicant should be awarded 5 retirement points.

6. On 3 October 2023, the Army Review Boards Agency, Case Management Division, provided the applicant the advisory opinion for review and comment. He did not respond.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was 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, available military records and U.S. Army Reserve Command – Soldier Programs Branch advisory opinion, the Board concurred with the advising official recommendation to grant approval finding the applicant should be awarded five (5) points based on regulatory guidance. Evidence shows the applicant submitted his D A Form 1380; however, the forms were completed improperly. The Board determined based on the opine, there is sufficient evidence to award the applicant retirement points. Therefore, the Board granted relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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| ■ | ■ | ■ | GRANT FULL RELIEF |
| : | : | : | GRANT PARTIAL RELIEF |
| : | : | : | GRANT FORMAL HEARING |
| : | : | : | DENY APPLICATION |

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected to show the applicant submitted his DA Form 1380's in a timely manner and should be awarded five (5) retirement points.

2/22/2024

X [REDACTED]

CHAIRPERSON
[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, USC, 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. Army Regulation (AR) 140-1 (Mission, Organization, and Training), in effect at the time, provides policy guidance on the mission, organization, and training of the U.S. Army Reserve (USAR). It does not contain guidance on preparation for order to active duty under a mobilization situation. Paragraph 3-11 (Equivalent training (ET)), ET is performed in lieu of scheduled training (either RST or, UTA or MUTA). Pay or retirement point credit, or both is authorized. ET must be accomplished within 60-days after the training for which it is substituted, or by the end of the training year (fiscal year) if within 60-days of that date. An explanation of the circumstances will be included, with a statement that the ET, if granted, will not cause the Soldier to exceed the 48 paid unit assemblies for the fiscal year. a. ET is limited to Soldiers who have missed a UTA, MUTA, or RST due to unforeseen personal emergencies and desire to make it up. No more than 4 UTAs may be made up during a fiscal year. b. ET given will be the same type and quality as the training missed. It will be appropriate to, and enhance the ability of, Soldiers to carry out their assigned duties. For staff or support personnel, this may include duty which enhances unit training, management, or readiness. c. ET must be at

least as long as the training missed. d. ET will not be granted for assemblies missed due to ADT.

3. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records):

a. Paragraph 2-2 (Criteria for earning retirement points) states retirement points may be earned by USAR Soldiers for active duty or duty in an active status for active duty for training (ADT), initial active duty for training (IADT), involuntary active duty for training (involuntary ADT), voluntary IDT, annual training (AT), IDT, membership points, and for other activities specified in this regulation.

- Four-hour rule; Soldiers earn one point for each scheduled 4-hour period of IDT at Battle Assembly, Rescheduled Training (RST), ET, or Additional Training Assemblies
- Two-hour rule; Soldiers earn one point for each IDT period per day for funeral honors duty with a maximum of one point per calendar day
- Four/eight-hour rule; Soldiers earn one point for each 4 hour or greater period, award of a second point in the same day requires additional hours to bring the day's total to a minimum of 8 hours for a maximum of two points in 1 calendar day

b. Paragraph 3-3 (DA Form 1380) states nonpaid DA Forms 1380 will not be entered into Automated Drill Attendance Reporting Software (ADARS) and will be forwarded to HRC for award of retirement points no later than the end of each duty month.

c. Table 3-1 provides that the code "N" will be entered for RST. The code "N" indicates the Soldier is entitled to retirement point credit only.

4. Department of Defense Instructions 1215.07 (Service Credit for Non-Regular Retirement) states inactive duty may be credited for each attendance at an inactive duty training period. A maximum of 2 retirement points for attendance at inactive duty training periods or equivalent training, in any 1 calendar day. The Service member's participation is without payment other than the pay to which the Service member is entitled as a Reserve Component member. Credit no more than one retirement point for fewer than 8 hours.

//NOTHING FOLLOWS//