

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 February 2024

DOCKET NUMBER: AR20230005153

APPLICANT REQUESTS: correction of the Separation Code (JGH) reflected on the DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending on 1 November 2016 to reflect transfer into the Retired Reserve.

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States) in lieu of DD Form 149 (Application for Correction of Military Record)
- Character letters
- Memorandum – Subject: Notification of Eligibility for Retired Pay at Non-Regular Retirement (20-Year letter), 30 October 2014
- DD Form 214, 1 November 2016
- Orders Number D-06-690192, 7 June 2016
- Orders Number D-06-690192A01, 9 June 2016
- Orders Number C-06-607646, 7 June 2016
- Orders Number C-02-601561R, 16 February 2016
- Certificate of Completion
- DD Form 2958 (Service Member Career Readiness Standards/individual Transition Plan Checklist)
- Orders Number R-07-985390, 29 July 2009
- Orders Number R-04-084317, 7 April 2010
- Orders Number R-06-384135, 10 June 2013
- DA Form 2166-8 (NCO Evaluation Report)
- Photographs
- Orders Number W-09-282219A01, 1 September 2015
- Orders Number W-09-590504, 1 September 2015
- DA Form 638 (Recommendation for Award)
- Certificates
- Orders Number 04-160-00013, 8 June 2004
- Orders Number B-12-007305, 21 December 2010
- Email communication

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 pertinent part that prior to transitioning out of the military, she had already received her 20-Year letter (30 October 2014). She contests that when she was discharged in November 2016, she should have been transferred into the Retired Reserve rather than into the U.S. Army (USAR) Control Group (Individual Ready Reserve (IRR)).
3. A review of the applicant's available service records reflects the following:
 - a. On 26 August 1994, the applicant enlisted in the USAR to serve as a 91B (Medical Specialist).
 - b. On 22 February 1995, Headquarters, Fifth U.S. Army and Fort Sam Houston issued Orders Number 053-00289 announcing the applicant's award of the 91B military occupational specialty, effective 7 April 1995.
 - c. On 29 July 2009, the U.S. Army Human Resources Command (AHRC) issued Orders Number R-07-985390 ordering the applicant to active duty in an Active Guard/Reserve (AGR) status, effective 14 September 2009 for a period of 3 years.
 - d. On 21 December 2010, AHRC issued Orders Number B-12-007305 announcing the applicant's promotion to sergeant first class (SFC)/E-7, effective 1 January 2011.
 - e. On 10 August 2012, AHRC issued Orders Number R-07-985390A01 amending Orders Number R-07-985390 to reflect an active-duty commitment of "8 years, 0 months, and 18 days" rather than "3 years."
 - f. On 30 October 2014, the applicant was issued her Notification of Eligibility for Retired Pay at Non-Regular Retirement (20-Year letter).
 - g. On or about 9 September 2015, the applicant's records were reviewed by the Qualitive Management Program (QMP) board, and she was subsequently denied continuance on active duty.
 - h. On or about 3 February 2016, the applicant submitted DA Form 2339 (Application for Voluntary Retirement) indicating her request to be transferred into the Retired

Reserve). At this time, the applicant had completed 9 years, 7 months, and 12 days of active federal service.

i. On 10 February 2016, the applicant was advised that a review of her personnel records identified that she was not afforded the right to present matters of mitigation prior to the 2015 QMP board. As a result, her request for appeal would be considered by the next QMP board. Therefore, her separation date under the QMP was deferred pending the results of the 1 March 2016 QMP board. The applicant was advised that should her appeal be denied, she would be given a separation date on the first day of the 7th month following the approval of the board results.

j. On 7 June 2016, AHRC issued Orders Number D-06-690192 discharging the applicant from the USAR with entitlement to half Separation Pay effective 1 November 2016. Soldiers who receive separation pay based on service in the armed forces, and who subsequently qualify under 10 USC or 14 USC for retired, or retainer pay, shall have deducted an amount equal to the total amount of separation pay not previously recouped. This amount will be recouped from each payment of retired or retainer pay until the total amount deducted is equal to the total amount of separation pay received.

k. On 9 June 2016, AHRC issued Orders Number D-06-690192A01 amending Orders Number D-06-690192 to reflect her completion of 22 years, 2 months, and 6 days of total service for basic pay on 1 November 2016.

l. On 1 November 2016, the applicant was honorably released from active duty and transferred into the USAR Control Group (IRR) in accordance with Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations), Chapter 4 (Separation for Expiration of Service Obligation). DD Form 214 reflects –

- Item 18 (Remarks) = Separation Pay \$28,054.46
- Item 23 (Type of Separation) = Discharge
- Item 25 (Separation Authority) = AR 635-200, Chapter 4
- Item 26 (Separation Code) = "JGH" (Non-Retention on Active-Duty)
- Item 28 (Narrative Reason for Separation) = Non-Retention on Active-Duty

4. The applicant provides the following a:

a. Character letters reflective of statements provided by a former coworker and instructor of the applicant's regarding both her professional performance and accomplishments as a Soldier. Both letters are provided in their entirety for the Boards review within the supporting documents.

b. Orders Number C-06-607646 dated 7 June 2016, reflective of the applicant being reattached to Carlisle Barracks pending separation processing on 1 November 2016.

c. Orders Number C-02-601561R dated 16 February 2016, reflective of Orders Number C-02-601561 being revoked.

d. Certificate of Completion reflective of the applicant's completion of the Soldier for Life – Transition Assistance Program on 5 August 2016.

e. DD Form 2958 reflective of the applicant's documented completion of the required pre-separation counseling requirements on 14 June 2016.

f. Orders Number R-04-084317 dated 7 April 2010, reflective of the applicant's reassignment to the 429th Medical Battalion as the Plans Sergeant, effective 27 September 2010.

g. Orders Number R-06-384135 dated 10 June 2013, reflective of the applicant's reassignment to the 329th Medical Company as a Platoon Sergeant, effective 14 October 2013.

h. DA Form 2166-8 reflective of the applicant's duty performance as assessed by members of her immediate leadership between 1 March 2007 through 13 October 2015. The applicant's overall performance was rated as "3" by her Senior Rater with "fair" promotion potential.

i. Photographs reflective of various pictures of a service member in uniform being presented with awards and recognition.

j. Orders Number W-09-282219A01 dated 1 September 2015, reflective of Orders Number W-090282219 being amended to reflect the applicant being awarded the Army Good Conduct Medal (First Award) for her service between 14 September 2009 – 13 September 2012.

k. Orders Number W-09-590504 dated 1 September 2015 reflective of the applicant being awarded the Army Good Conduct Medal (2nd Award) for her service between 14 September 2012 – 13 September 2015.

l. DA Form 638 reflective of the applicant being awarded the Army Commendation Medal in recognition of her meritorious achievement while assigned as the Plans Noncommissioned Officer from 3 January 2011 – 13 October 2013.

m. Certificates reflective of various accomplishments made by the applicant to include being awarded her Associates Degree and completion of the Phlebotomy

course of instruction. These documents are provided in their entirety for the Board's review within the supporting documents.

n. Orders Number 04-160-00013 dated 8 June 2004, reflective of the applicant being promoted to staff sergeant (SSG)/E-6, effective 7 June 2004.

o. Email communication reflective of communication concerning the applicant's assignment to the IRR rather than the Retired Reserve. On 7 April 2023, the applicant was advised that AHRC Retirement and Separations Branch/Enlisted Personnel Management Directorate QMP team noted that prior to separation processing, she was supposed to elect to either be discharged or elect to retire no later than 1 November 2016. Their records failed to reflect that she submitted a request prior to the suspense date and therefore, discharge orders were issued. The applicant was further directed to request relief through the ABCMR.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

2. AGR Soldiers with 20 years or more of qualifying service for non-regular retired pay may elect voluntary REFRAD with concurrent transfer to the Retired Reserve.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was 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 by:

- a. issuing orders and showing these orders were issued in a timely manner to place her in the retired Reserve effective 1 November 2016, and
- b. amending her DD Form 214 for the period ending 1 November 2016 to show in block 26 (Separation Code), the entry, "KGH."

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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, 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) 635-200 (Active Duty Enlisted Administrative Separations), Chapter 4 (Separation for Expiration of Service Obligation) provides the policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons.

a. Chapter 4 (Separation for Expiration of Service Obligation) provides that a Soldier will be separated upon expiration of enlistment or fulfillment of service obligation.

b. Paragraph 19-13 (Voluntary Separation) provides that AGR Soldiers with at least 17 years, 9 months, but less than 20 years, of qualifying service for nonregular retired pay (Title 10, USC, section 12732) at the time of notification of Qualitative Management Program (QMP) selection, who choose not to appeal or whose appeal is denied, and whose Expiration of Term of Service (ETS) occurs prior to the 20-year point, may extend their enlistments for the minimum period required to qualify for nonregular retirement as prescribed by Title 10, USC, section 1176(b).

c. AGR Soldiers with 20 years or more of qualifying service for non-regular retired pay may elect voluntary Release from Active Duty (REFRAD) with concurrent transfer to the Retired Reserve. Such REFRAD will occur 90 days after the Soldier receives pre-separation counseling.

d. Paragraph 19-14 (Expiration of Term of Service (ETS)) provides that unless ineligible to extend for a reason other than QMP selection (for example local bar to re-enlistment or approved separation under another chapter of this regulation), Soldiers with less than 120 days to ETS at the time of notification of QMP selection may have their enlistments extended enough time to permit processing an appeal. Unless another basis of separation exists, and except as provided in paragraph 19-15 (Active-Duty Retirement), Soldiers with less than 120 days to ETS at the time of decision not to appeal, or denial of appeal, will not be discharged prior to ETS. Soldiers in this category will be discharged at ETS under the provisions of chapter 4.

3. AR 635-5-1 (Personnel Separations Separation Program Designator Codes) prescribes the specific authorities (statutory, regulatory, and Department of Defense (DOD)/Army policy) and reasons for separating Soldiers from active duty. Also, it

prescribes when to enter SPD codes on the DD Form 214 (Certificate of Release or Discharge from Active Duty).

a. Table 2-3 (Enlisted Personnel) provides that SPD code "JGH" and "KGH" (Non-Retention on Active Duty) are for enlisted Soldiers selected by QMP who do not elect voluntary retirement and are either voluntarily or involuntarily discharged.

b. SPD "JGH" relates to an "Involuntary" discharge and "KGH" relates to a "Voluntary" discharge.

(1) AGR Soldiers who perceive they will be unable to overcome a field commander's bar to reenlistment may request voluntary separation.

(2) AGR Soldiers with 20 years or more of qualifying service for non-regular retired pay may elect voluntary REFRAD with concurrent transfer to the Retired Reserve.

//NOTHING FOLLOWS//