

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 March 2024

DOCKET NUMBER: AR20230005515

APPLICANT REQUESTS: correction of his retirement points to reflect inclusion of service for points only performed for the retirement years beginning on 8 June 2013 and ending on 7 June 2014, beginning on 8 June 2014 and ending on 7 June 2015, beginning on 8 June 2022 and ending on 13 November 2022 for the following periods:

- January to July 2014
- August 2022

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 1380 (Record of Individual Performance of Reserve Duty Training), 4 March 2014
- DA Form 1380, 30 March 2014
- DA Form 1380, 27 April 2014
- DA Form 1380, 27 May 2014
- DA Form 1380, 1 July 2014
- DA Form 1380, 11 July 2014
- DA Form 1380, 31 July 2014
- Memorandum, Subject: Letter of Lateness for Submission of DA Forms 1380, 27 August 2015
- DA Form 1380, 15 September 2022
- Troop Program Unit (TPU) Personnel Actions Check List, 26 April 2023

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, he was informed by his S-1 that his DA Forms 1380 were returned without action due to the forms not being in accordance with Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level

Strength Accounting Records) and Department of the Army G-1 exception to policy memorandum dated 24 March 2022 because the forms were not submitted within 60-days.

3. A review of the applicant's available service record reflects the following:

a. On 22 October 2008, having had prior Regular Army enlisted service, DA Form 61 (Application for Appointment) shows he requested appointment as a Reserve commissioned officer of the Army.

b. On 5 May 2009, HRC issued the following Memorandums:

(1) Memorandum, Subject: Application for U.S. Army Reserve (USAR) Appointment showing the applicant met all criteria, including approval from the Secretary of Defense, approving his request for appointment as a Reserve commissioned officer.

(2) Memorandum, Subject: Appointment as a Reserve Commissioned Officer of the Army which appointed him as a Reserve commissioned officer for an indefinite term.

c. On 8 June 2009, he was appointed as a Reserve commissioned officer and executed an oath of office.

d. On 29 July 2021, the U.S. Army Human Resources Command issued a Memorandum, Subject: Notification of Eligibility for Retired Pay at Non-Regular Retirement (20-Year Letter).

e. DA Form 5016 (Retirement Accounting Statement), dated 7 July 2023 shows:

(1) For the retirement year ending on 7 June 2014, the applicant earned 73 Inactive Duty Training (IDT) points, 15 membership points, and 6 Active Duty Training (ADT) points, totaling 94 total points creditable.

(2) For the retirement year ending on 7 June 2015, the applicant earned 57 IDT points, 15 membership points, and 12 ADT points, totaling 84 total points creditable.

(3) For the retirement year ending 13 November 2022, the applicant earned 18 IDT points, 7 membership points, and 14 ADT points, totaling 39 total points creditable.

f. He continues service with the USAR.

4. The applicant provides the following:

a. DA Form 1380, dated 4 March 2014 showing the applicant completed training on 6,9,11,12, and 26 January 2014, for 4 hours each; on 16 and 30 January 2014, for 1 hour each; and on 25 January 2014, for 2 hours, totaling 6 total retirement points.

b. DA Form 1380, dated 30 March 2014 showing the applicant completed training on 6,13, and 28 February 2014, for 2 hours each; and on 9,11,12,19 and 26 February 2014, for 4 hours each, totaling 6.5 retirements points.

c. DA Form 1380, dated 27 April 2014 showing the applicant completed training on 4,7,14,21, and 27 March 2014, for 4 hours each; and on 11,18, and 31 March 2014, for 2 hours each, totaling 6.5 retirement points.

d. DA Form 1380, dated 27 May 2014 showing the applicant completed training on 1,2,8,22, and 29 April 2014, for 4 hours each; on 7 and 15 April 2014, for 3 hours each; and on 17 April 2014, for 2 hours, totaling 7 retirement points.

e. DA Form 1380, dated 1 July 2014 showing the applicant completed training on 1 and 12 May 2014, for 3 hours each; on 2,8,15,26, and 30 May 2014, for 4 hours each; and on 5 May 2014, for 2 hours, totaling 7 retirement points.

f. DA Form 1380, dated 11 July 2014 showing the applicant completed training on 1,2,3,10,13,23,25, and 27 June 2014, for 4 hours each, totaling 8 retirement points.

g. DA Form 1380, dated 31 July 2014 showing the applicant completed training on 1,5,6,15,18,19,29, and 30 July 2014, for 4 hours each, totaling 8 retirement points.

h. Memorandum, Subject: Letter of Lateness for Submission of DA Forms 1380, dated 27 August 2015 stating, in effect, due to his assignment to a new unit and the transition of the Human Resource sergeant upon arrival to his new unit, the applicant's DA Forms 1380 were not processed for points only in a timely manner.

i. DA Form 1380, dated 15 September 2022 showing the applicant completed training on 2,3,4,8,9,10,15,18,22,24,29, and 31 August 2022, for 4 hours each, totaling 12 retirement points.

j. TPU Personnel Actions Check List, dated 26 April 2023 showing he submitted the DA Forms 1380 for points only to his unit for processing.

5. The total of all DA Forms 1380 equals 61 retirement points. This total was based on the information provided/shown in the DA Forms 1380 (1 hour or 2 hours used for the sum of 4 hours for one retirement point).

6. On 11 October 2023, the United States Army Reserve Command (USARC), Chief, Soldier Programs Branch, provided an advisory opinion recommending approval of the applicant's request stating, in effect, they reviewed the applicant's documents and determined he should be awarded 68 points based off Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records).
7. On 18 October 2023, the applicant was provided with a copy of the advisory opinion to provide a response. As of 1 November 2023, he did not respond.
8. On 23 February 2023, USARC in response to inquiry from the team chief as it pertains to the totality of retirement points provided in the advisory opinion, USARC stated "The total number of N1s is 68. That is how I (USARC official) determined the points. There regulation is either N1=4hours or N2=8 hours. The Soldier filled out the DA Forms 1380 incorrectly. I can rewrite the advisory opinion to say we only credit where they fill it out correctly, but then the Soldier is going to turn around and recreate the missing points. Better to save time and effort on all parties, to give him the benefit of the doubt in this case."

#### 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 Headquarters, United States Army Reserve Command- Chief Solider Program Division advisory opinion, the Board concurred with the advising official recommendation for approval finding the applicant should be awarded 68 points based off regulatory guidance (AR) 140-185. The Board agreed there is sufficient evidence to grant relief based on the opine recommendation. Therefore, the Board granted relief for correction of the applicant's retirement points to reflect inclusion of service for points only performed for the retirement years beginning on 8 June 2013 and ending on 7 June 2014, beginning on 8 June 2014 and ending on 7 June 2015, beginning on 8 June 2022 and ending on 13 November 2022 for the following periods:

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 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 retirement points to reflect inclusion of service for points only performed for the retirement years beginning on 8 June 2013 and ending on 7 June 2014, beginning on 8 June 2014 and ending on 7 June 2015, beginning on 8 June 2022 and ending on 13 November 2022 for the following periods for the applicant.

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. 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. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records), paragraph 3-3 (DA Form 1380) provides that the DA Form 1380 is utilized to record IDT performed by non-unit Soldiers under the jurisdiction of HRC who are attached for retirement points only to USAR Troop Program Units, Army National Guard units, or to another service or component for training. Only attached Soldiers are authorized to perform IDT with the exception of one annual physical health assessment each for medical and dental readiness when authorized by the command prior to the event.

a. Nonpaid DA Forms 1380 will not be entered into ADARS and will be forwarded to HRC for award of retirement points no later than the end of each duty month.

b. With regard to awarding of retirement points for IDT (Four-Hour Rule), Service Members will be awarded one point for each 4-hour period of IDT duty performed. Maximum of two points per calendar day applies to IDT duty. Duty must be 8 hours in duration to receive two points per day.

//NOTHING FOLLOWS//