IN THE CASE OF:

BOARD DATE: 20 March 2024

DOCKET NUMBER: AR20230005795

<u>APPLICANT REQUESTS:</u> correction of his DA Form 5016 (Retirement Accounting Statement) to award his non-paid retirement points for the following retirement years ending:

- 15 December 2020
- 15 December 2021
- 13 November 2022
- 15 December 2022
- 10 May 2023

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) for duty performed in October 2020
- DA Form 1380 for duty performed in December 2020
- DA Form 1380 for duty performed in January 2021
- DA Form 1380 for duty performed in July 2021
- DA Form 1380 for duty performed in August 2021 signed 14 July 2022
- DA Form 1380 for duty performed in August 2021 signed 17 April 2023
- DA Form 1380 for duty performed in September 2021
- Headquarters (HQs) and HQs Company (HHC), 333rd Military Police Brigade (MP BDE) Memorandum for Record (MFR), Subject: Justification for Lateness – DA Form 1380 – Captain (CPT) 2 November 2021
- HHC, 333rd Military Police Brigade (MP BDE) MFR, Subject: Justification for Lateness – DA Form 1380 – First Sergeant (1SG)
 3 November 2021
- DA Form 1380 for duty performed in November 2021
- DA Form 1380 for duty performed in December 2021
- DA Form 1380 for duty performed in February 2022
- DA Form 1380 for duty performed in March 2022
- DA Form 1380 for duty performed in April 2022
- DA Form 1380 for duty performed in May 2022

ABCMR Record of Proceedings (cont)

- DA Form 1380 for duty performed in June 2022
- HHC, 333rd MP BDE MFR, Subject: Letter of Lateness
- DA Form 1380 for duty performed in July 2022
- DA Form 1380 for duty performed in September 2022
- DA Form 1380 for duty performed on 17 October 2022
- DA Form 1380 for duty performed in October 2022
- Leave and Earnings Statement (LES), 3 February 2023
- DA Form 1380 for duty performed in February 2023
- HHC, 333rd MP BDE MFR, Subject: Justification for Lateness DA Form 1380 1SG
 (the applicant)
- E-mail from U.S. Army Human Resources Command (HRC)

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, his DA Forms 1380 were never submitted into the Regional Level Application Software (RLAS) for the duty which he performed as a staff officer, the DA Form 1380 for his Logistics Health Incorporated (LHI) appointment was not processed duty to the lack of funding. Once Integrated Personnel and Pay System – Army (IPPS-A) became the system of record his Army Reserve Administrator (ARA) advised him to submit a Personnel Action Request to be awarded non-paid retirement points for processing; however, the 200th Military Police Command ignored the letters of lateness which he provided which resulted in his request being denied. Not only had he not received retirement points for the duty shown on the DA Forms 1380 he also has not received retirement points for duty shown on his LES for 21 through 22 January 2023. He requests 199 retirement points.

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

a. On 14 November 1990, the applicant enlisted in the Regular Army.

b. The applicant was honorably released from active duty on 10 March 1993 and assigned to the U.S. Army Reserve (USAR) Control Group (Reinforcement). DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 2-years, 3-months, and 27-days of active service.

c. On 15 June 1993, Orders Number C-06-322218, issued by the USAR Personnel Center, the applicant was assigned to the Army National Guard (CARNG) effective 1 April 1993.

d. On 1 September 1994, the applicant was released from the ARNG and assigned to the USAR Control Group (Annual Training). National Guard Bureau Form 22 (Report of Separation and Record of Service) shows the applicant completed 1-year, 5-months, and 1-day of service.

e. The applicant's service record is void of evidence of reassignment to the USAR Troop Program Unit (TPU). On 23 April 1999, Orders Number 113-005, issued by HQs, 98th Division (Institutional Training), the applicant was honorably discharged from the USAR, effective 10 July 1998.

f. On 20 March 2001, Orders Number D-03-115074, issued by the USAR Personnel Command, the applicant was honorably discharged from the USAR, effective 20 March 2001.

g. On 16 December 2002, the applicant enlisted in the USAR and had continuous service through one indefinite term reenlistment.

h. The applicant was ordered to active duty for multiple named operations.

i. On 5 May 2017, Orders Number 17-125-00005, issued by HQs, 81st Regional Support Command, the applicant was assigned to 2nd Battalion, 309th Regiment, effective 6 June 2017.

j. On 24 September 2019, Orders Number 19-267-00072, issued by HQs, 99th Readiness Division (USAR), the applicant was assigned to the 333rd MP BDE, effective 1 October 2019.

k. DA Form 5016 dated 10 May 2023 shows for the retirement years below the applicant earned:

- 15 December 2020 68 Inactive Duty Training (IDT) points, 15 membership points, 14 – Active Duty Training (ADT) points, totaling 97 – total creditable points
- 15 December 2021 100 IDT points, 15 membership points, 25 ADT points, 140 total creditable points
- 13 November 2022 48 IDT points, 14 membership points, 45 ADT points, 107 total creditable points
- 15 December 2022 4 IDT points, 1 membership point, 4 ADT points, 9
 total creditable points
- Retirement year beginning 16 December 2022 31 IDT points, 0 membership points, 10 – ADT points, 41 – total creditable points

It also shows the applicant was awarded retirement points for duty performed:

ABCMR Record of Proceedings (cont)

- 5 ADT points during the period of 12 through 16 September 2022
- 6 ADT points during the period of 18 through 23 September 2022
- 5 ADT points during the period of 26 through 30 September 2022

I. On 11 May 2023, Orders Number 3048158.07, issued by the 200th MP Command, the applicant was assigned to the 333rd MP BDE 1SG position, effective 22 June 2021.

m. DA Form 5016 dated 18 May 2023 shows for retirement years below the applicant earned:

- 15 December 2020 68 IDT points, 15 membership points, 14 ADT points, totaling 97 total creditable points
- 15 December 2021 100 IDT points, 15 membership points, 25 ADT points, 140 total creditable points
- 13 November 2022 48 IDT points, 14 membership points, 45 ADT points, 107 total creditable points
- 15 December 2022 4 IDT points, 1 membership points, 4 ADT points, 9 - total creditable points
- 10 May 2023 31 IDT points, 6 membership points, 10 ADT points, 47 – total creditable points

It also shows the applicant was awarded retirement points for duty performed:

- 5 ADT points during the period of 12 through 16 September 2022
- 6 ADT points during the period of 18 through 23 September 2022
- 5 ADT points during the period of 26 through 30 September 2022

n. DA Form 5016 dated 20 July 2023 shows the applicant earned the same amount of retirement points as identified on the DA Form 5016 dated 18 May 2023. f

o. On 26 July 2023, Orders Number C07-390385, issued by HRC, the applicant was placed on the retired list, effective 11 May 2023.

p. DA Form 5016 dated 15 November 2023 shows for retirement years below the applicant earned:

- 15 December 2020 68 IDT points, 15 membership points, 14 ADT points, totaling 97 total creditable points
- 15 December 2021 100 IDT points, 15 membership points, 25 ADT points, 140 total creditable points
- 13 November 2022 48 IDT points, 14 membership points, 45 ADT points, 107 total creditable points

- 15 December 2022 4 IDT points, 1 membership points, 4 ADT points, 9 - total creditable points
- 10 May 2023 41 IDT points, 6 membership points, 10 ADT points, 57 – total creditable points
- 11 May 2023 (Retired Reserve) 0 IDT points, 0 membership points, 0 ADT points, 0 – total creditable points

It also shows the applicant was awarded retirement points for duty performed:

- 5 ADT points during the period of 12 through 16 September 2022
- 6 ADT points during the period of 18 through 23 September 2022
- 5 ADT points during the period of 26 through 30 September 2022
- 1 Inactive Duty for Training (IDT) for points only on 4 February 2023
- 1 IDT for points only on 8 February 2023
- 1 IDT for points only on 12 February 2023
- 1 IDT for points only on 14 February 2023
- 1 IDT for points only on 18 February 2023
- 1 IDT for points only on 20 February 2023
- 1 IDT for points only on 22 February 2023
- 1 IDT for points only on 24 February 2023
- 1 IDT for points only on 27 February 2023
- 1 IDT for points only on 28 February 2023

q. DA Form 5016 dated 25 February 2024 shows the same information as the DA Form 5016 dated 15 November 2023.

4. The applicant provides:

a. DA Form 1380 dated 31 October 2020 from the Commander, 340th MP Company, Fort Totten, NY, shows the applicant performed 4-hours of 1SG administration duties for non-paid retirement points on:

- 1, 4, 6, 7, 13, 14, 23, 26, 30 and 31 October 2020
- Totaling 10 retirement points

Sergeant First Class (SFC) Operations Noncommissioned Officer (NCO) signed the DA Form 1380 on 3 November 2020 as the officer that had knowledge of the duties the applicant performed.

b. DA Form 1380 dated 31 December 2020 from the Commander, 340th MP Company, Fort Totten, NY shows the applicant performed 4-hours of 1SG administration duties for non-paid retirement points on:

- 2, 3, 5, 6, 8, 9, 11, 12, 14, 18, 19 and 21 December 2020
- Totaling 12 retirement points

First Lieutenant (1LT) Company Commander signed the DA Form 1380 on 14 May 2021 as the officer that had knowledge of the duties the applicant performed.

c. DA Form 1380 dated 31 January 2021 from the Commander, 340th MP Company, Fort Totten, NY shows the applicant performed 4-hours of 1SG administration duties for non-paid retirement points on:

- 3, 4, 5, 8, 12, 15, 17, 18, 19, 28, 29 and 30 January 2021
- Totaling 12 retirement points

1LT Company Commander signed the DA Form 1380 on 14 May 2021 as the officer that had knowledge of the duties the applicant performed.

d. DA Form 1380 dated 31 July 2021 from the HHC Commander, 333rd MP BDE, Farmingdale, NY, shows the applicant performed 4-hours of command staff and administration duties for non-paid retirement points on:

- 3, 6, 8, 12, 13, 16, 19, 20, 23, 27, 29 and 31 July 2021
- Totaling 12 retirement points

Captain (CPT) Company Commander signed the DA Form 1380 on 14 July 2022 as the officer that had knowledge of the duties the applicant performed.

e. DA Form 1380 dated 31 August 2021 from the HHC Commander, 333rd MP BDE, Farmingdale, NY, shows the applicant performed 4-hours of command staff and administration duties for non-paid retirement points on:

- 3, 5, 8, 12, 13, 16, 19, 20, 24, 28, 30 and 31 August 2021
- Totaling 12 retirement points

CPT Company Commander signed the DA Form 1380 on 14 July 2022 as the officer that had knowledge of the duties the applicant performed.

f. DA Form 1380 dated 31 August 2021 from the HHC Commander, 333rd MP BDE, Farmingdale, NY, shows the applicant performed 4-hours of command staff and administration duties for non-paid retirement points on:

- 6, 10, 15, and 22 August 2021
- Totaling 4 retirement points

CPT Company Commander signed the DA Form 1380 on 17 April 2023 as the officer that had knowledge of the duties the applicant performed.

g. DA Form 1380 dated 30 September 2021 from the HHC Commander, 333rd MP BDE, Farmingdale, NY, shows the applicant performed 4-hours of command staff and administration duties for non-paid retirement points on:

- 2, 4, 5, 6, 9, 10, 14, 15, 17, 23, 27 and 30 September 2021
- Totaling 12 retirement points

CPT Company Commander signed the DA Form 1380 on 30 September 2021 as the officer that had knowledge of the duties the applicant performed.

h. HHC, 333rd MP BDE MFR dated 2 November 2021, Subject: Justification for Lateness – DA Form 1380– CPT which stated the justification for the lateness of the submission for the DA Forms 1380 for points and pay for CPT was that the service member submitted his DA Forms 1380 numerous times for processing; however, due to no fault of his own the documents were never processed. Signed by CPT

i. HHC, 333rd MP BDE MFR dated 3 November 2021, Subject: Justification for Lateness – DA Form 1380 – 1SG (the applicant) which stated the justification for the lateness of the submission for the DA Forms 1380 for 1SG for points and pay was that the service member submitted his DA Forms 1380 numerous times for processing; however, due to no fault of his own the documents were never processed. Signed by CPT

j. DA Form 1380 dated 30 November 2021 from the HHC Commander, 333rd MP BDE, Farmingdale, NY, shows the applicant performed 4-hours of command staff and administration duties for non-paid retirement points on:

- 1, 3, 5, 8, 9, 12, 15, 17, 18, 22, 23, and 30 November 2021
- Totaling 12 retirement points

CPT Company Commander signed the DA Form 1380 on 14 July 2022 as the officer that had knowledge of the duties the applicant performed.

k. DA Form 1380 dated 31 December 2021 from the HHC Commander, 333rd MP BDE, Farmingdale, NY, shows the applicant performed 4-hours of command staff and administration duties for non-paid retirement points on:

- 1, 2, 3, 6, 8, 9, 13, 15, 17, 20, 22 and 27 December 2021
- Totaling 12 retirement points

CPT Company Commander signed the DA Form 1380 on 14 July 2022 as the officer that had knowledge of the duties the applicant performed.

I. DA Form 1380 dated 28 February 2022 from the HHC Commander, 333rd MP BDE, Farmingdale, NY, shows the applicant performed 4-hours of command staff and administration duties for non-paid retirement points on:

- 1, 2, 4, 7, 9, 11, 14, 18, 21, 23, 25 and 28 February 2022
- Totaling 12 retirement points

CPT Company Commander signed the DA Form 1380 on 14 July 2022 as the officer that had knowledge of the duties the applicant performed.

m. DA Form 1380 dated 31 March 2022 from the HHC Commander, 333rd MP BDE, Farmingdale, NY, shows the applicant performed 4-hours of command staff and administration duties for non-paid retirement points on:

- 1, 2, 4, 5, 14, 17, 21, 22, 25, 28, 30 and 31 March 2022
- Totaling 12 retirement points

CPT Company Commander signed the DA Form 1380 on 14 July 2022 as the officer that had knowledge of the duties the applicant performed.

n. DA Form 1380 dated 30 April 2022 from the HHC Commander, 333rd MP BDE, Farmingdale, NY shows the applicant performed 4-hours of command staff and administration duties for non-paid retirement points on:

- 1, 4, 6, 8, 12, 13, 18, 20, 21, 25, 27 and 29 April 2022
- Totaling 12 retirement points

CPT Company Commander signed the DA Form 1380 on 14 July 2022 as the officer that had knowledge of the duties the applicant performed.

o. DA Form 1380 dated 31 May 2022 from the HHC Commander, 333rd MP BDE, Farmingdale, NY, shows the applicant performed 4-hours of command staff and administration duties for non-paid retirement points on:

- 2, 4, 6, 9, 12, 13, 16, 20, 23, 25, 26 and 31 May 2022
- Totaling 12 retirement points

CPT Company Commander signed the DA Form 1380 on 14 July 2022 as the officer that had knowledge of the duties the applicant performed.

p. DA Form 1380 dated 30 June 2022 from the HHC Commander, 333rd MP BDE, Farmingdale, NY, shows the applicant performed 4-hours of command staff and administration duties for non-paid retirement points on:

- 3, 6, 8, 9, 12, 13, 15, 16, 20, 21, 23 and 28 June 2022
- Totaling 12 retirement points

CPT Company Commander signed the DA Form 1380 on 14 July 2022 as the officer that had knowledge of the duties the applicant performed.

q. HHC, 333rd MP BDE MFR dated 14 July 2022, Subject: Letter of Lateness which stated the DA Forms 1380 for 1SG (the applicant) were submitted late due to the lack of support from the Reserve Personnel Action Centers (RPAC) at Fort Totten, NY, and inability to contact the RPAC personnel. The applicant was reassigned to a new unit and the commander was transferred outside of the brigade for deployment. The applicant's DA Forms 1380 for the period of October 2020 through June 2022 were never signed and therefore were not submitted for processing. Signed by CPT

r. DA Form 1380 dated 31 July 2022 from the HHC Commander, 333rd MP BDE, Farmingdale, NY, shows the applicant performed 4-hours of command staff and administration duties for non-paid retirement points on:

- 1, 4, 6 and 7 July 2022
- Totaling 4 retirement points

CPT Company Commander signed the DA Form 1380 on 17 April 2023 as the officer that had knowledge of the duties the applicant performed.

s. DA Form 1380 dated 30 September 2022 from the HHC Commander, 333rd MP BDE, Farmingdale, NY, shows the applicant performed 4-hours of command staff and administration duties for non-paid retirement points on:

- 2, 5, 8, 13, 16, 19, 20, 22, 24, 28 and 30 September 2022
- The applicant lists 31 September 2022; there are only 30 days in September
- Totaling 11 retirement points

CPT Company Commander signed the DA Form 1380 on 17 April 2023 as the officer that had knowledge of the duties the applicant performed.

t. DA Form 1380 dated 31 October 2022 from the HHC Commander, 333rd MP BDE, Farmingdale, NY, shows the applicant performed 4-hours attending his appointment for Human immunodeficiency virus testing and diphtheria and tetanus (TD) immunization for non-paid retirement points on 17 October 2022. CPT

Commander signed the DA Form 1380 on 26 April 2023 as the officer that had knowledge of the duties the applicant performed.

u. DA Form 1380 dated 31 October 2022 from the HHC Commander, 333rd MP BDE, Farmingdale, NY, shows the applicant performed 4-hours of command staff and administration duties for non-paid retirement points on:

- 3, 8, 12, 14, 15, 18, 20, 24, 25, 26, 28 and 30 October 2022
- Totaling 12 retirement points

CPT Company Commander signed the DA Form 1380 on 17 April 2023 as the officer that had knowledge of the duties the applicant performed.

v. LES dated 3 February 2023 shows the applicant performed IDT for the morning and afternoon unit training assembly periods on 21 and 22 January 2023.

w. DA Form 1380 dated 30 Mar 2023 from the HHC Commander, 333rd MP BDE, Farmingdale, NY, shows the applicant performed 4-hours of command staff and administration duties for non-paid retirement points on:

- 4, 8, 12, 14, 15, 18, 20, 22, 24, 27 and 28 February 2023
- The applicant lists 30 February; there are only 28 days in February
- Totaling 11 retirement points

CPT Company Commander signed the DA Form 1380 on 17 April 2023 as the officer that had knowledge of the duties the applicant performed.

x. HHC, 333rd MP BDE MFR dated 28 April 2023, Subject: Justification for Lateness – DA Forms 1380 – 1SG (the applicant) which stated the justification for the late submission of DA Forms 1380 for pay and points for 1SG (the applicant) was his DA Forms 1380 were submitted numerous times to the ARA; however, they were never processed due to no fault of his own. Signed by CPT

y. E-mail dated 10 May 2023 from HRC, Reserve Personnel Actions Branch which stated the applicant would be required to submit a DA Form 149 to the ABCMR as his request for retirement points was outside the regulatory guidelines with the exception of the retirement points for February 2023.

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 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 and available military records the Board determined the applicant provided insufficient evidence showing there was an error or that he submitted 1380s as claimed. The Board noted the only 1380s that were digitally signed in a reasonable timeframe of performing the for points only duty were SEP 2021 and OCT 2020.

2. The Board agreed due to the large number of inaccuracies, non-existent dates, IDT/ADT occurring on claimed points only days, and the bulk of the 1380s being signed on the same day as the lateness memo, becomes difficult for the board to determine error or injustice as the board is not an investigative body. Furthermore, the Board found insufficient evidence that the original 1380s exist, that justifies them all signed on the same date months later. Based on this, the Board denied relief.

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.



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 U.S. Army Reserve 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//