

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 November 2023

DOCKET NUMBER: AR20230006005

APPLICANT REQUESTS: in effect, amendment of U. S. Army Human Resources Command (HRC) Orders Number C01-399434 to be effective 30 September 2022.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 4836 (Oath of Extension of Enlistment or Reenlistment)
- Orders Number C01-399434

FACTS:

1. The applicant states, in effect, HRC Orders Number C01-399434 which placed her on the retired list need to be amended to show an effective date of 30 September 2022. She needs the order to be amended before she can apply for Veterans Group Life Insurance.
2. A review of the applicant's service record shows:
  - a. On 14 May 1997, having had prior enlisted service in the U.S. Navy, the applicant enlisted in the U. S. Army Reserve (USAR).
  - b. A DA Form 5016 (Chronological Statement of Retirement Points) shows she had a break in service from 4 December 2000 through 9 September 2007.
  - c. On 10 September 2007, the applicant enlisted in the USAR.
  - d. On 23 February 2019, the applicant extended her enlistment in the USAR for a period of 1 year, 1 month, and 21 days, changing her expiration term of service (ETS) to 30 October 2020.
  - e. The applicant turned age 60 on 15 October 2020, which is the maximum age for service.

- f. The applicant's service record is void of evidence she had an approved extension to exceed the maximum age.
- g. On 13 October 2020, the applicant extended her enlistment in the USAR for a new ETS of 30 September 2022.
- h. On 10 March 2022, Orders Number 22-069-00056, issued by Headquarters (HQs), 63rd Readiness Division (USAR), reassigned the applicant to the USAR Control Group (Retired Reserve) for maximum age, effective 9 September 2021.
- i. On 10 January 2023, Orders Number C01-399434, issued by HRC, placed the applicant on the Retired List, effective 10 September 2021.
- j. A DA Form 5016 (Chronological Statement of Retirement Points) dated 29 August 2023 shows the applicant was placed on the retired list effective 10 September 2021 with 20-years, 6-months, and 21-days of qualifying service for retirement.

3. On 31 August 2023, in the processing of this case, HRC provided an advisory opinion regarding the applicant's request for the amendment of Orders Number C01-399434. The advisory official stated the applicant was assigned to the USAR Control Group (Retired Reserve), effective 9 September 2021 and based on this date HRC placed her on the Army of the United States (AUS) Retired List, effective 10 September 2021. The applicant's records show she continued to earn Inactive Duty for Training (IDT) points until 6 March 2022. Therefore, the date she was placed on the AUS Retired List can be amended only if the HQs, 63rd Readiness Division (USAR) will amend Orders Number 22-069-00056 to correct the date she was assigned to the USAR Control Group (Retired Reserve).

4. On 20 October 2023, the applicant was provided with a copy of the advisory for comment. She did not respond.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found partial relief is warranted.
2. The Board carefully considered the applicant's request and the information provided by the advisory official. The Board found the applicant should be credited with continued service through the last day she earned points for inactive duty training. The Board determined the orders placing her in the Retired Reserve should be amended to reflect an effective date of 7 March 2022.

3. The Board found the evidence does not support a later date of transfer to the Retired Reserve. The evidence indicates the applicant was allowed to serve past the usual maximum age to become eligible for retired pay based on 20 qualifying years of service. Once she had reached that milestone, there was no longer a reason to retain her. That being the case, the Board determined there is no basis for correcting her record to show she served through 30 September 2022 as she has requested.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
█	█	█	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending Headquarters, 63d Readiness Division (USAR), Orders 22-069-00056, 10 March 2022, to show the effective date of the orders is 7 March 2022.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to any relief in excess of that described above.

2/16/2024

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. Army Regulation (AR) 135-180 (Army National Guard and Army Reserve – Retirement for Non-regular Service), implements statutory authorities governing the granting of retired pay for non-regular service to Soldiers in the Army National Guard (ARNG), Army National Guard of the United States (ARNGUS) or the U.S. Army Reserve (USAR).

a. Paragraph 2-1 (Age requirements), Minimum age. To be eligible for retired pay, an individual must have attained the minimum age prescribed by law-age 60.

b. Paragraph 4-4 (Retirement orders), a. Once the application is received and certified by HRC, orders will be issued by the CG, HRC placing the eligible individual on the AUS retired list and announcing the effective date eligible persons are entitled to retired pay.

2. AR 600-8-105 (Military Orders), prescribes the policies and mandated operating tasks for the orders program of the military personnel (MILPER) system. It establishes standards and provides an operational document in a logical sequence. Paragraph 2-25 (Amendments, revocations, and rescissions), a. Only the organization that published the original order may amend, rescind, or revoke the order. Commanders may revoke award orders if issued by another headquarters only when authorized under AR 600–8–22.

3. Title 10 United States Code (USC), section 12731 (Age and service requirements), (a) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person:

- has attained the eligibility age applicable under subsection (f) to that person
- has performed at least 20-years of service computed under section 12732 of this title
- in the case of a person who completed the service requirements
- is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve

//NOTHING FOLLOWS//