



5. He was ordered to active duty on 12 January 2003. He served in Iraq from 10 December 2003 to 18 March 2005. He was honorably released from active duty on 29 September 2011. He completed 8 years, 8 months, and 18 days of active service during this period.
6. On 18 January 2018, an informal physical evaluation board found him medically/physically unfit for "other specified trauma and stressor related disorder." He reported the onset of this condition in 2012 due to combat stressors from his deployment to Iraq from 2003 through 2005. The physical evaluation board recommended a combined disability rating of 70 percent and his permanent disability retirement. He concurred with the recommendation and waived a formal hearing of his case.
7. U.S. Army Physical Disability Agency Order D 030-39, 30 January 2018, retired him by reason of permanent disability and placed him on the Retired List in the grade of sergeant first class effective 6 March 2018.
8. His DA Form 5016, 24 March 2024, shows he completed 18 years, 6 months, and 8 days of qualifying service toward Non-Regular retirement.
9. There is no evidence showing he completed 19 years, 11 months, and 14 days of qualifying Reserve service for retired pay purposes.
10. He will reach age 60 in July 2040.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, 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 there is insufficient evidence to support the applicant's contention for adjustment of his retirement basic pay date by 17 days to show he completed 20 years of qualifying Reserve service for retired pay. The Board noted, the applicant's DA Form 5016, dated 24 March 2024 reflects the applicant completed 18 years, 6 months and 8 days of qualifying service towards his non-regular retirement.
2. This board is not an investigative body. The Board determined despite the absence of the applicant's records, they agreed the burden of proof rest on the applicant, however, he did not provide any supporting documentation and his service record has insufficient evidence to support the applicant contentions that he completed 19 years, 11 months, and 14 days of qualifying Reserve service for retired pay purposes. Therefore, 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.

5/14/2024

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. Title 10, U.S. Code, 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. Title 10, U.S. Code, section 12731 (Age and Service Requirements), provides the legal age and service requirements for Non-Regular retirement. Upon application, a person is entitled to retired pay if the person has attained the applicable eligibility age, has performed at least 20 years of service computed under section 12732 of this title,

and 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.

3. Title 10, U.S. Code, section 12731a (Temporary Special Retirement Qualification Authority), provides for retirement with at least 15 years of service. The Secretary concerned may, during the period described in the subsection below, determine to treat a member of the Selected Reserve of a Reserve Component of the armed force under the jurisdiction of that Secretary as having met the service requirements of Title 10, U.S. Code, section 12731, subsection (a)(2), and provide the member with the notification required by subsection (d) of that section if the member:

a. as of 1 October 1991, has completed at least 15 years and less than 20 years of service computed under section 12732 of this title; or

b. after that date and before the end of the period described in subsection (b), completes 15 years of service computed under that section; and

c. upon the request of the member submitted to the Secretary, transfer the member to the Retired Reserve.

d. The period referred to above is the period beginning 23 October 1992 and ending 31 December 2001.

4. Title 10, U.S. Code, section 12731b (Special Rule for Members with Physical Disabilities Not Incurred in the Line of Duty), enacted 23 October 1992, provides that in the case of a member of the Selected Reserve of a Reserve Component who no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability, the Secretary concerned may, for the purpose of section 12731 of this title, determine to treat the member as having met the service requirement and provide the member notification required if the member completed at least 15 years but less than 20 years of qualifying service for retirement purposes as of 1 October 1991. This special provision of the law is applicable only to members who are medically disqualified for continued service in a Reserve Component.

5. Army Regulation 140-185 (Training and Retirement Points Credits and Unit Level Strength Accounting Records) contains Army policy for U.S. Army Reserve training and retirement point credit. Paragraph 1-7 states a qualifying year of service for Non-Regular retired pay is a full year during which a Reserve Component member is credited with a minimum of 50 retirement points. Except as otherwise provided by law, an accumulation of 20 such years is one requirement necessary to qualify for Non-Regular retired pay.

//NOTHING FOLLOWS//