

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 March 2024

DOCKET NUMBER: AR20230006342

APPLICANT REQUESTS: correction of his records to show retirement points only for duty performed between September 2017 and January 2023.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Forms 1380 (Record of Individual Performance of Reserve Duty Training)
- Emails
- Draft Retirement Account Statement
- DA Form 2823 (Sworn Statement)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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:

a. He has approximately 7 years of service that has not been applied to his service record due to a failure of either not having a unit administrator (UA) or having one and the UA not doing his job. The UA has been disciplined; however, the processing of the DA Forms 1380 has not been successful.

b. The DA Forms 1380 have been submitted to the Integrated Personnel and Pay System-Army and were kicked back due to being too old. The applicant has reached out to his unit and battalion, and no one has helped him handle the issue. He was told to submit an application to the Board.

c. Without this action being completed, it is hindering him from retiring. The DA Forms 1380 have been scanned into his Integrated Personnel Electronic Records Management System record; however, he has not received the correct years of service that correspond with the DA Forms 1380.

d. The applicant's records are clearly not documented because they only reflect 12 years of service. After this fiscal year ends in October [2023], he is supposed to have 20 years of service. Without this correction being completed in a timely manner it further hinders him from retiring when he is eligible. The applicant's leadership is putting the issue on him, but he personally cannot fix the issue by himself.

e. The applicant has been working on this issue for 7 years without success. He has been through three company commanders, three first sergeants, and multiple battalion changes and nothing has been fixed. The applicant has copies of emails and inspector general (IG) complaints from over the years to show he has attempted to correct these errors. He now has no other avenue to get this injustice corrected.

3. The applicant provides the following documents:

a. DA Forms 1380, which show the applicant performed duty on:

- 13-19 September 2017, 8 hours per day, 2 retirement points per day (14 total points)
- 11-17 October 2017, 8 hours per day, 2 retirement points per day (14 total points)
- 18-19 November 2017, 9-10 December 2017, 24-25 February 2018, 21-22 April 2018, and 18-20 May 2018, 8 hours per day, 2 retirement points per day (22 total points)
- 23-24 June 2018 and 17-19 August 2018, 8 hours per day, 2 retirement points per day (10 total points)
- 2-4 November 2018, 5-6 January 2019, 17-18 January 2019, 2-3 March 2019, and 6-7 April 2019, 8 hours per day, 2 retirement points per day (22 total points)
- 1-7 March 2019, 8 hours per day, 2 retirement points per day (10 total points)
- 3-5 May 2019, 8 hours per day, 2 retirement points per day (6 total points)
- 13-14 July 2019 and 3-4 August 2019, 8 hours per day, 2 retirement points per day (8 total points)
- 14-15 March 2020, 8 hours per day, 2 retirement points per day (4 total points)
- 19 April 2020, 8 hours, 2 retirement points (2 total points)
- 13-14 June 2020, 8 hours per day, 2 retirement points per day (4 total points)
- 26 January 2021, 4 hours, 1 retirement point (1 total point)
- 9 February 2021, 4 hours, 1 retirement point (1 total point)
- 15 March 2021, 4 hours, 1 retirement point (1 total point)
- 31 March 2021, 4 hours, 1 retirement point (1 total point)
- 9, 16, 23, and 30 April 2021, 4 hours per day, 1 retirement point per day (4 total points)

- 17-18 April 2021, 8 hours per day, 2 retirement points per day (4 total points)
- 7, 14, 21, and 28 May 2021, 4 hours per day, 1 retirement point per day (4 total points)
- 4, 11, 18, and 25 June 2021, 4 hours per day, 1 retirement point per day (4 total points)
- 2, 9, 16, 23, and 30 July 2021, 4 hours per day, 1 retirement point per day (5 total points)
- 6, 13, 20, and 27 August 2021, 4 hours per day, 1 retirement point per day (4 total points)
- 31 August 2021, 8 hours, 2 retirement points (2 total points)
- 2 and 7 September 2021, 8 hours per day, 2 retirement points per day (4 total points)
- 3, 9, 17, 23, and 24 September 2021, 4 hours per day, 1 retirement point per day, (5 total points)
- 1, 8 15, 22, and 29 October 2021, 4 hours per day, 1 retirement point per day (5 total points)
- 30 October 2021, 4 hours, 1 retirement point (1 total point)
- 5-7 November 2021, 8 hours per day, 2 retirement points per day (6 total points)
- 7 and 9 March 2022, 8 hours per day, 2 retirement points per day (4 total points)
- 11 and 25 March 2022, 4 hours per day, 1 retirement point per day, (2 total points)
- 12-13 March 2022, 8 hours per day, 2 retirement points per day (4 total points)
- 31 March 2022, 8 hours, 2 retirement points (2 total points)
- 1 April 2022, 8 hours, 2 retirement points (2 total points)
- 6, 20, and 27 May 2022, 4 hours per day, 1 retirement point per day, (3 total points)
- 3, 9, 17, and 24 June 2022, 4 hours per day, 1 retirement point per day (4 total points)
- 11-12 June 2022, 8 hours per day, 2 retirement points per day (4 total points)
- 8 July 2022, 4 hours, 1 retirement point (1 total point)
- 15 and 31 August 2022, 4 hours per day, 1 retirement point per day (2 total points)
- 8-9 September 2022, 8 hours per day, 2 retirement points per day (4 total points)
- 16 and 30 September 2022, 4 hours per day, 1 retirement point per day (2 total points)
- 7 and 28 October 2022, 4 hours per day, 1 retirement point per day (2 total points)

- 15-16 October 2022, 8 hours per day, 2 retirement points per day (4 total points)
- 3-4 November 2022, 8 hours per day, 2 retirement points per day (4 total points)
- 11 and 25 November 2022, 4 hours per day, 1 retirement point per day (2 total points)
- 10 and 23 December 2022, 4 hours per day, 1 retirement point per day (2 total points)
- 7-8 January 2023, 8 hours per day, 2 retirement points per day (4 total points)
- 13 and 27 January 2023, 4 hours per day, 1 retirement point per day (2 total points)

b. Emails between the applicant and unit personnel regarding his DA Forms 1380, which show the actions the applicant took to get the DA Forms 1380 processed. The email chains are available for the Board's consideration.

c. DA Form 2873, which is an undated sworn statement from the applicant which explains the duties the applicant performed and the actions he took to get the DA Forms 1380 processed. The applicant signed the form on 13 July 2021. It is not signed by a witness.

4. The applicant's service record contains the following documents:

a. NGB Form 22 (National Guard Report of Separation and Record of Service) shows the applicant enlisted in the Army National Guard on 20 November 2007 and was honorably transferred to U.S. Army Reserve (USAR) Control Group (Individual Ready Reserve) on 7 November 2016. He had a total of 16 years of service for pay and 12 years of service for retired pay.

b. Orders C-12-616748, published by U.S. Army Human Resources Command (AHRC), dated 5 December 2016 voluntarily transferred the applicant from USAR Control Group (Reinforcement) to a USAR Troop Program Unit effective 2 December 2016.

c. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States), dated 10 August 2018 shows the applicant reenlisted in the USAR.

d. DA Form 5016 (Chronological Statement of Retirement Points), dated 21 February 2024 shows the applicant had a total of 12 years qualifying for retirement. The form shows his service in the USAR from 7 November through 29 October 2021. The applicant received the following points:

- 7 November 2016 - 29 October 2017, 26 inactive duty points and 15 membership points, 41 total points
- 30 October 2017 - 29 October 2018, 4 inactive duty points, 15 membership points, 20 active duty points, 39 total points
- 30 October 2018 - 29 October 2019, 8 inactive duty points, 15 membership points, 13 active duty points, 36 total points
- 30 October 2019 - 29 October 2020, 32 inactive duty points, 15 membership points, 47 total points
- 30 October 2020 - 29 October 2021, 21 inactive duty points, 15 membership points, 36 total points

5. On 20 October 2023, the Chief, Soldier Program Branch, U.S. Army Reserve Command (USARC) provided an advisory opinion stating USARC reviewed the applicant's documents and determined he should be awarded 114 points based off Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength and Accounting Records). The applicant submitted 38 DA Forms 1380 and 17 were improperly completed. USARC recommended the applicant correct the DA Forms 1380 and resubmit them to the Board. Partial administrative relief granted.

6. On 25 October 2023, the advisory opinion was provided to the applicant to allow him the opportunity to respond. The applicant resubmitted corrected copies of his DA Forms 1380, which have been summarized in the Record of Proceedings.

7. On 13 December 2023, the Chief, Soldier Program Branch, USARC, provided a second advisory opinion, which states USARC reviewed the applicant's documents and determined he should be awarded all requested points based off AR 140-185. The applicant submitted DA Forms 1380 for points for duties performed outside the scheduled Battle Assembly. The issue is that the applicant's unit or administrative team did not process his requests in the appropriate timeframe. A favorable decision would allow AHRC to process the DA Forms 1380 for retirement points, due to missing the 60 day window requirement. Full administrative relief granted.

8. On 14 December 2023, the advisory opinion was provided to the applicant to allow him the opportunity to respond. He did not respond.

#### 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 applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant contends he is missing many retirement points between September 2017 and January 2023. The Board initially questioned the applicant's failure to submit retirement points that go that far back; however, the Board agreed with the advisory official's

finding the applicant should be awarded all requested points based off AR 140-185. The applicant submitted DA Forms 1380 for points for duties performed outside the scheduled Battle Assembly. The issue is that the applicant's unit or administrative team did not process his requests in the appropriate timeframe. The Board determined relief is warranted.

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 by awarding the applicant qualifying retirement points on the dates reflected on his submitted DA Forms 1380 between September 2017 and January 2023, provided all other criteria is met.

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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, 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. Army Regulation 140-185 prescribes the types of training and activities for which retirement points are authorized and the procedures for recording retirement point credits and training for U.S. Army Reserve (USAR) Soldiers.

a. Paragraph 2–2, states retirement points may be earned by USAR Soldiers for active duty (AD), or while in an active Reserve status, for active duty for training (ADT), initial active duty for training (IADT), involuntary active duty for training (involuntary ADT), annual training (AT), and IDT. Types of IDT are:

- regularly scheduled unit training includes Unit Training Assemblies (UTA), and Multiple Unit Training Assemblies (MUTA)
- Regularly Scheduled Training (RST) other than UTA/MUTA
- make up assemblies for missed UTA/MUTA due to AT
- Equivalent Training (ET) in lieu of scheduled UTA/MUTA or RST
- additional training assemblies (ATA)
- two-hour unit training assemblies
- training of individual Soldiers in non-pay status

b. Paragraph 2–4 states, personnel on AD, ADT, IADT, involuntary ADT, or AT are awarded 1 point for each calendar day they serve in one of these categories and may not be awarded additional points for other activities while in such status. Most types of IDT are covered by one of the following rules on required duration of IDT and calendar day limitations on points:

- one point for each scheduled 4-hour period of IDT at UTA, RST, ET, ATA, or make up assembly maximum of 2 points in 1 calendar day
- one point for each 2 hour or greater period
- two-hour aggregates of shorter periods may be used, except in the case of 2-hour unit training assembly's maximum of 1 point in 1 calendar day
- one point for each 2 hour or greater period
- two-hour aggregates of shorter periods may be used except in the case of 2-hour unit training assemblies
- award of a second point in the same day requires additional hours to bring the day's total to a minimum of 8, maximum of 2 points in 1 calendar day

- points may not be awarded under more than one of the rules above during any single calendar day

c. Paragraph 3-3(b) provides that a DA Form 1380 will be prepared for a unit Soldier who performs equivalent training or additional training. The code "P" or "N" will be entered in item 9c before the retirement point credit. The code "P" indicates the Soldier is entitled to inactive duty pay for the duties performed; the code "N" indicates the Soldier is entitled to retirement point credit only. TPU units will retain one copy of the DA Form 1380 to post the appropriate entry into ADARS for the month's report and then place in the appropriate Army records information management system file. Non-paid DA Form 1380s 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. The DA Form 1380 will be scanned into the Soldiers Integrated Personnel Electronic Records Management System record by the unit of assignment.

//NOTHING FOLLOWS//