

IN THE CASE OF: ██████████

BOARD DATE: 28 February 2024

DOCKET NUMBER: AR20230006530

APPLICANT REQUESTS: correction of retirement points for qualifying service performed between August 2016 – September 2022.

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum – Subject: Attestation for the Correction and Addition of Retirement Points, 30 March 2023
- DA Form 1380 (Record of Individual Performance of Reserve Duty Training) 2016-2022

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 that he was unaware of his ability to request retirement points for being a key leader and performing military duties on a daily basis. He contests that while serving as a company commander from August 2016 – January 2018 with the Headquarters and Headquarters Company, 9th Mission Support Command and a key leader with varying other units from January 2018 – September 2022, he repeatedly performed military duties that would qualify for retirement points to be awarded, however he was under the assumption that this could only occur if the duty was performed in person after pay options had been exhausted. He notes that within the claimed periods, he corresponded with the full-time staff as well as other key leaders in an official capacity on a daily basis. Further, he made himself available via email, by phone or in person upon request as supported by the provided memorandums.
3. A review of the applicant's available service records reflects the following:

- a. On 26 June 2009, the applicant was appointed a Reserve commission and subsequently assigned to a Troop Program Unit (TPU).
- b. On 14 August 2015, the applicant was ordered to active duty in support of Operation Enduring Freedom.
- c. On 12 August 2016, the applicant was released from active duty.
- d. On 13 February 2018, Headquarters, 9th Mission Support Command issued Orders Number 18-044-00007 reassigning the applicant to the 301st Military Intelligence Battalion, effective 13 February 2018
- e. On 5 September 2019, the U.S. Army Human Resources Command (AHRC) issued Orders Number B-09-905931 announcing the applicant's promotion to major (MAJ)/O-4, effective 7 August 2019.
- f. On 2 November 2020, the applicant was ordered to active duty in support of Active-Duty Training (ADT).
- g. On 4 March 2021, the applicant was released from active duty.
- h. On 29 September 2023, the applicant was issued his Notification of Eligibility for Retired Pay at Non-Regular Retirement (20-year letter).

4. The applicant provides the following a:

- a. Memorandum – Subject: Attestation for the Correction and Addition of Retirement Points, reflective of Captain (CPT) [REDACTED] statement regarding the applicant's performance of duty as the Officer in Charge (OIC), from May – October 2022. CPT [REDACTED] provides that the applicant corresponded daily with the full-time staff and made himself available upon request.
- b. Memorandum – Subject: Attestation for the Correction and Addition of Retirement Points, reflective of the applicant's statement regarding his performance of duty in varying key positions from January 2018 – September 2022. This document restates the information provided in the applicant's opening comments to this Board and is further provided in its entirety within the supporting documents for the Board's review.
- c. Memorandum – Subject: Attestation for the Correction and Addition of Retirement Points, reflective of Sergeant First Class (SFC) [REDACTED] statement regarding the applicant's performance of duty as an OIC from August 2016 – January 2018. SFC [REDACTED] provides that the applicant corresponded daily with the full-time staff and made himself available upon request.

d. Memorandum – Subject: Attestation for the Correction and Addition of Retirement Points, reflective of CPT [REDACTED] statement regarding the applicant's performance of duty as an OIC from March 2021 – April 2022. CPT [REDACTED] provides that the applicant corresponded daily with the full-time staff and made himself available upon request.

e. Memorandum – Subject: Attestation for the Correction and Addition of Retirement Points, reflective of CPT [REDACTED] statement regarding the applicant's performance of duty as an OIC from October 2019 – November 2020. CPT [REDACTED] provides that the applicant corresponded daily with the full-time staff and made himself available upon request.

f. DA Form 1380 reflective of the applicant's performance of duty for "points only" in accordance with Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength and Accounting Records), Table 2-3 (Award of Inactive Duty Training Retirement Points), Rule 7 (Performs Additional Training Assemblies (ATA) as a key officer in a unit within training/pay categories of A,B, C or M) on the following dates (4 hours a day):

2016 (duty performed as a Company Commander)

- August 22-26, 29-31 and September 1-2, 5-6 (12 points total)
- September 7-9, 12-16, 19-22 (12 points total)
- September 23, 26-27, 29-30 and October 3-7, 10-11 (12 points total)
- October 12-14, 17-21, 24-27 (12 points total)
- October 28, 31 and November 1-4, 7-11, 14 (12 points total)
- November 15-18, 21-23, 25, 28-30 and December 1 (12 points total)
- December 2, 5-9, 12-16, 19 (12 points total)
- December 20-23, 26-30 (9 points total)

2017 (duty performed as a Company Commander)

- January 2-6, 9-13, 16, 17 (12 points total)
- January 18-20, 23-27, 30-31 and February 1-2 (12 points total)
- February 3, 6-10, 13-17, 20 (12 points total)
- March 9-10, 13-17, 20-24 (12 points total)
- March 27-31 and April 3-7, 10-11 (12 points total)
- April 12-14, 17-21, 24-27 (12 points total)
- April 28 and May 1-5, 8-12, 15 (12 points total)
- May 16-19, 22-26, 29-31 (12 points total)
- June 1-2, 5-9, 12-16 (12 points total)
- June 19-23, 26-30 and July 3-4 (12 points total)

- July 5-7, 10-14, 17-20 (12 points total)
- July 21, 24-28, 31 and August 1-4 (12 points total)
- August 7-11, 14-18, 21-22 (12 points total)
- August 23-25, 28-31 and September 1, 4-7 (12 points total)
- September 8, 11-15, 18-22, 25 (12 points total)
- September 26-29 and October 2-6, 9-11 (12 points total)
- October 12-13, 16-20, 23-27 (12 points total)
- October 30-31 and November 1-3, 6-10, 13-14 (12 points total)
- November 15-17, 20-24, 27-30 (12 points total)
- December 1, 4-8, 11-15, 18 (12 points total)
- December 19-22, 26-29 (8 points total)

2018 (duty performed as a Company Commander)

- January 2-6, 9-13, 16-17 (12 points total)

2019 (duty performed as a Company Commander)

- January 1-4, 7-11, 14-16 (12 points total)
- January 17-18, 21-25, 28-31 and 1 February (12 points total)
- February 4-8, 11-15, 18-19 (12 points total)
- February 20-22, 25-28 and March 1, 4-7 (12 points total)
- March 8, 11-15, 18-22, 25 (12 points total)
- March 26-29 and April 1-5, 8-10 (12 points total)
- April 11-12, 15-19, 22-26 (12 points total)
- April 29-30 and May 1-3, 6-10, 13-14 (12 points total)
- May 15-17, 20-24, 27-30 (12 points total)
- May 31 and June 3-7, 10-14, 17 (12 points total)
- June 18-21, 24-27 and July 1-4 (12 points total)
- July 5, 8-12, 15-19, 22 (12 points total)
- July 23-26, 29-31 and August 1-2, 5-7 (12 points total)
- August 8-9, 12-16, 19-23 (12 points total)
- August 26-30 and September 2-6, 9-10 (12 points total)
- September 11-13, 16-20, 23-26 (12 points total)

2019 (duty performed as a Human Intelligence Mission Manager)

- September 27, 30 and October 1-4, 7-11, 14 (12 points total)
- October 15-18, 21-25, 28-30 (12 points total)
- October 31 and November 1, 4-8, 11-15 (12 points total)
- November 18-22, 25-29 and December 2-3 (12 points total)
- December 4-6, 9-13, 16-19 (12 points total)

- December 20, 23-24, 26-27, 30 (6 points total)

2020 (duty performed as a Human Intelligence Mission Manager)

- January 1-3, 6-10, 13-16 (12 points total)
- January 17, 20-24, 27-31 and February 3 (12 points total)
- February 3-7, 10-14, 17-18 (12 points total)
- February 19-21, 24-28 and March 2-5 (12 points total)
- March 6, 9-13, 16-20, 23 (12 points total)
- March 24-27, 30-31 and April 1-3, 6-8 (12 points total)
- April 9-10, 13-17, 20-24 (12 points total)
- April 27-30 and May 1, 4-8, 11-12 (12 points total)

2020 (duty performed as a Human Intelligence Mission Manager)

- May 13-14, 18-22 and 25-28 (12 points total)
- May 29 and June 1-4, 5-12, 15 (12 points total)
- June 16-18, 19, 22-25, 26, 29-30 and July 1 (12 points total)
- July 2-3, 6-10, 13-17 (12 points total)
- July 20-24, 27-31 and August 3-4 (12 points total)
- August 5-7, 10-14, 17-20 (12 points total)
- August 21, 24-28, 31 and September 1-4, 7 (12 points total)
- September 8-11, 14-18, 21-23 (12 points total)
- September 24-25, 28-30 and October 1-2, 5-9 (12 points total)
- October 12-16, 19-23, 26-27 (12 points total)
- October 28-30 (3 points total)

2021 (duty performed as the Battalion S-3)

- March 8-12, 15-19, 22-23 (12 points total)
- March 24-26, 29-31 and April 1-2, 5-8 (12 points total)
- April 9, 12-16, 19-23, 26 (12 points total)
- April 27-30 and May 3-7, 10-12 (12 points total)
- May 13-14, 17-21, 24-28 (12 points total)
- May 31 and June 1-4, 7-11, 14-15 (12 points total)
- June 16-18, 21-25, 28-30 and July 1 (12 points total)
- July 2, 5-9, 12-16, 19 (12 points total)
- July 20-23, 26-30 and August 2-4 (12 points total)
- September 8-10, 13-17, 20-23 (12 points total)
- September 24, 27-30 and October 1, 4-8, 11 (12 points total)
- October 12-15, 18-22, 25-27 (12 points total)
- October 28-29 and November 1-5, 8-12 (12 points total)

- November 15-19, 22-26, 29-30 (12 points total)
- December 1-3, 6-10, 13-16 (12 points total)
- December 17, 20-24, 27-31 (11 points total)

2022 (duty performed as the Battalion S-3)

- January 3-7, 10-14, 17-18 (12 points total)
- January 19-21, 24-28, 31 and February 1-3 (12 points total)
- February 4, 7-11, 14-18, 21 (12 points total)
- February 22-25, 28 and March 1-4, 7-9 (12 points total)
- March 10-11, 14-18, 21-25 (12 points total)
- March 28-31 (4 points total)

2022 (duty performed as the Joint Staff J-2)

- May 2-6, 9-13, 16-17 (12 points total)
- May 18-20, 23-27, 30-31 and June 1-2 (12 points total)
- June 3, 6-10, 13-17, 20 (12 points total)
- June 21-24, 27-30 and July 1, 4-6 (12 points total)
- July 7-8, 11-15, 18-22 (12 points total)
- July 25-29, August 1-5, 8-9 (12 points total)
- August 10-12, 15-19, 22-25 (12 points total)
- August 26, 29-31 and September 1-2, 5-9, 12 (12 points total)
- September 13-16, 19-23, 26-28 (12 points total)
- September 29-30 (2 points total)

5. On 10 October 2023, Headquarters, U.S. Army Reserve Command, Chief, Soldier Programs Branch, provided an advisory opinion recommending denial of the applicant's request noting that he has not provided the proper documentation required in accordance with AR 140-185. The applicant provided multiple DA Forms 1380, however none of the documents are properly completed i.e., the documents were not endorsed by an officer having knowledge of the applicant's performance of duty.

6. On 19 October 2023, the applicant was provided with a copy of the advisory opinion and afforded 30 days to provide comments. As of 13 February 2024, the applicant has not responded.

7. A review of the applicant's most recent DA Form 5016 (Chronological Statement of Retirement Points) dated 13 February 2024, contains evidence of points previously awarded during several claimed periods of service between 2016-2022. The applicant's detailed points history available within the Soldier Management System – Web (SMS-Web) provides a chronological account of the points previously awarded during multiple

claimed periods contained with the applicant's requested relief. A copy of this information is further provided in its entirety within the supporting documents for the boards review.

BOARD DISCUSSION:

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, available military records and Headquarters, U.S. Army Reserve Command, Chief, Soldier Programs Branch advisory opinion, the Board concurred with the advising official the applicant has not provided sufficient documentation required by regulatory guidance (AR 140-185). The opine noted the applicant provided multiple DA Form 1380 which were not properly completed. The Board noted the applicant appears to be doubling counting and his forms are unsigned. Furthermore, the Board agreed as noted by the opine, the applicant must have all DA Form 130 signed by an officer who is knowledgeable of his duties for proper retirement points calculation. Based on opine, the Board denied relief.

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:

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.

2/29/2024

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. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength and Accounting Records) 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 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.

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

- regularly scheduled unit training includes UTA, and 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 2-3 (Qualification and Eligibility for Earning Retirement Points) provides that all USAR Soldiers are classified into alphabetic training/pay categories (T/PC) for determination of individual requirements for paid IDT and AT (see AR 140-1).

These categories determine individual status in the RR (Selected Reserve (SELRES), IRR, and the Standby Reserve (active and inactive)).

c. Paragraph 2–4 (Criteria for Awarding Retirement Points) 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
- Soldiers may not perform more than 48 BAs per fiscal year. Soldiers must perform RST within 60 days of the missed BA.

d. Paragraph 3-3 (DA Form 1380) provides that DA Form 1380 will be prepared for a unit Soldier who performs equivalent training or additional training with their unit after the scheduled Battle Assembly. TPU units will retain one copy of the DA Form 1380 to post the appropriate entry into ADARS for the months report. 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.

e. Paragraph 3-3b, states 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.

f. Table 2-3 (Award of Inactive Duty Training Retirement Points) provides that Rule 7 pertains to the performance of Additional Training Assemblies (ATA) as a key officer or noncommissioned officer in the unit training/pay category (T/PC) A, B, C or M. T/PCs are provided within Army Regulation 140-1 (Mission, Organization and Training).

2. AR 140-1 (Mission, Organization and Training) provides policy guidance on the mission, organization, and training of the U.S. Army Reserve (USAR). Table 3-2 (Authorized Reserve, Training and Retirement Categories) provides the following T/PC:

- A = Individuals in Units (Troop Program Unit)
- B = Individual Mobilization Augmentee
- C = Active Status List (Stand by Reserve)
- M = Military Technicians

//NOTHING FOLLOWS//