

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 March 2024

DOCKET NUMBER: AR20230006550

APPLICANT REQUESTS: in effect, to change his –

- Military Member Status Identifier (MMSI) code on his National Guard Bureau (NGB) Form 23A (Army National Guard (ARNG) Current Annual Statement) to E5 instead of H3
- Annual Year Ending (AYE) to 19 February
- Pay Entry Basic Date (PEBD) to 20 February 2004 instead of 21 August 2004

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

- DD Forms 149 (Application for Correction of Military Record)
- DD Form 368 (Request for Conditional Release), 3 August 2005
- Statement of Understanding - Regular Army Enlistment Delay for Applicants with Prior Service or an Existing Military Service Obligation (MSO), 5 August 2005
- DD Form 4 (Enlistment/Reenlistment Document - Armed Forces of the United States), 6 February 2006
- NGB Form 23A, 28 March 2023
- Email communication, 1 and 9 March 2023
- Retirement points earned screenshot
- Timeline of events

FACTS:

1. The applicant states:

a. He is requesting correction for the period 5 August 2005 to 5 February 2006 on his NGB Form 23, as it is currently reflected as a civilian break in service (MMSI H3). The supporting documentation will show that during that time period he was in fact a part of the Regular Army (RA) Delayed Entry Program (DEP). The change requested would be to make the MMSI on the NGB Form 23 of H3 to E5, which would also allow for his AYE for retirement to shift back to the original February 19th. He is also requesting that with this correction of removing a six month break in service, his PEBD be changed from 21 August 2004 to 20 February 2004, his original enlistment date.

b. He has exhausted all resources available to have this changed outside of the Army Board for Correction of Military Records (ABCMR). Upon learning of the issue in November of 2019, he was informed that he would need a DD Form 4 from the enlistment to have the change made. He did not have a copy of this document. He petitioned the National Archives in December 2019 for this record, which was not in his file. He then started a Congressional Inquiry on 15 July 2021 (final correspondence included) resulting in not being entitled to a DD Form 4, the only document the Retirement Office told him could be used to update that time period. This correction to his record would allow for his service to be reflected accurately also allowing the two dates aforementioned to also be accurate. Both of these dates are key for retirement purposes, and he feels in their current inaccurate state are a hindrance to him.

c. Upon learning of the error and the way forward to fix it he has been making a continuous effort to resolve this issue; first looking through his own files, followed by requesting his documents from the National Archives, then simultaneously engaging the Pennsylvania Army National Guard (PAARNG) Retirement Services Office and the office of Congresswoman M\_ S\_ as a Congressional Inquiry.

2. A review of the applicant's official records show the following:

a. He enlisted in the in the U.S. Army Reserve (USAR) on 20 February 2004.

b. DD Form 220 (Active Duty Report) shows Orders Number 4058006 dated 27 February 2004, ordered the applicant to initial active duty for training on 18 June 2004 and he completed basic combat training on 3 September 2004.

c. DD Form 368 shows his request for conditional release from the USAR was granted on 3 August 2005.

d. On 5 August 2005, he completed and signed a Statement of Understanding Regular Army Enlistment Delay for Applicants with Prior Service or an Existing MSO. In pertinent part, the statement of understanding states:

(1) His enlistment into the Regular Army would be for 4 years with a reporting date to the Philadelphia Military Entrance Processing Station (MEPS) no later than 5 January 2006. He was assured of attending the school course for Military Occupational Specialty (MOS) 25F (Network Switching Systems Operator/Maintainer).

(2) He understood that he had enlisted in an MOS that was taught in the One Station Unit Training mode. He may be required to complete all or a portion of Basic Training, regardless of the period of his "break in service."

(3) Failure to report on date specified above would result in cancellation of his Regular Army enlistment reservation without notification. Willful failure to report may result in denial for enlistment for up to 2 years. If the option, MOS, or assignment provided above was, canceled, changed, or becomes unavailable before he enlisted into the Regular Army, he would be given the opportunity to select another option.

(4) The guidance counselor acknowledged that, all MEPS processing had been completed except execution of a DD Form 4.

e. On 19 September 2005, the U.S. Army Recruiting Battalion New York City published Orders Number 262-7, which separated the applicant from the Regular Army DEP, Fort Knox, KY, effective 29 June 2005.

f. On 8 November 2005, Headquarters, 77th U.S. Army Regional Readiness Command published Orders Number 05-312-00015, which discharged the applicant from the USAR with an uncharacterized discharge, effective 29 June 2005.

g. On 4 January 2006, his separation request from the Reserve Component was approved based on him receiving a Reserve Officers' Training Corps scholarship from Drexel University.

h. On 6 February 2006, he enlisted in the Pennsylvania ARNG (PAARNG).

i. His record contained a Personnel Qualification Record - Enlisted prepared on 15 May 2009, which shows his PEBD as 26 September 2004.

j. On 9 June 2010, NGB Form 22 (Report of Separation and Record of Service) shows he was honorably discharged from the PAARNG to accept an appointment as a commissioned officer. He completed 4 years, 4 months, and 4 days net service this period. Item 10d (Total Service for Pay) shows 5 years, 8 months, and 14 days.

k. On 10 June 2010, NGB Form 337 (Oaths of Office) shows he was appointed as a second lieutenant in the PAARNG and executed an oath of office.

l. On 13 March 2011, he entered active duty for training.

m. On 8 July 2011, he was released from active duty for training and transferred to the PAARNG. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 3 months and 26 days of net active service this period. Item 14 (Military Education) shows he completed the 15 weeks Ordnance Basic Officer Leader-Branch Course, 2011.

n. NGB Form 23A prepared on 6 February 2024 shows an MMSI code of H3 (non-military, civilian break) for the period beginning 5 August 2005 and ending 5 February 2006. The applicant's total points earned towards retirement are shown as 2686 career points, 2656 points for Retired pay, and 18 years, 5 months, and 15 days creditable service for Retired pay.

3. In support of his case the applicant provides:

a. Email communication dated 1 and 9 March 2023, between him and the PAARNG G-1, Retirement Services Coordinator discussing his MMSI H3 code, DD Form 4 for the RA DEP, and Congressional. The applicant was advised that he would not have received a DD Form 4 until he reported to the MEPS and shipped for initial for active duty for training.

b. Retirement points screenshot showing his retirement points earned and personnel data.

c. A timeline of events, which show the significant events and actions that occurred on the pertinent dates.

4. On 7 December 2023, in an email, the PAARNG G-1, Senior Human Resources Advisor responded to a request for information regarding the applicant's request and stated:

a. A DD Form 4 is required to make this change. Records show the applicant accessed into the USAR on 20 February 2004. After completing Basic Combat Training, he requested a Conditional Release from the USAR to enter a Regular Army (RA) Delayed Status on 5 August 2005. The USAR approved this request. The RA delayed status allowed him to sign initial paperwork committing to the enlistment on 5 August 2005, but would not require him to leave (ship) for training until a later date. In his case, the ship date was established as 5 January 2006.

b. According to the Guard Strength Division at Fort Knox, enlistment contracts (DD Form 4) are not completed until the individual reports to ship for training. The applicant did not report to MEPS to ship on 5 January 2006. On 4 January 2006, a separation request was approved citing a separation reason of Continuing Education. Unfortunately, we [PAARNG G-1] do not have the authority to fulfill the applicant's request because he was not entitled to a DD Form 4 for the requested period. There is nothing in his record to support DEP during that time except for the Statement of Understanding, which is not a valid document to change his MMSI code (H3).

5. On 12 January 2024, the NGB, Chief, Special Actions Branch provided an advisory opinion for this case and recommended disapproval. The advisory official stated:

a. The applicant's records show that he continues to serve in the PAARNG. A review of the applicant's records by the PAARNG show that he accessed into the USAR on 20 February 2004, and after completion of basic combat training, he requested a conditional release from the USAR to enter a RA delayed status on 5 August 2005. The USAR approved this request.

b. Documents provided by the PAARNG G-1 supports the States claim that he did request a conditional release from the USAR to enter Army Delayed Status, and that the request was approved and given a ship date of 5 January 2006. However, the applicant requested separation on 4 January 2006, and therefore did not report on his shipping date. Enlistment contracts (DD Form 4) are not completed until an individual Soldier reports to ship for training. The applicant did not report to MEPS to ship on 5 January 2006.

b. This office recommends disapproval of the applicant's request to have his MMSI on his NGB Form 23A change for the period of 5 August 2005 thru 5 February 2006. The applicant does not have a DD Form 4 for that period of service, because he did not report to MEPS to ship on 5 January 2006, instead he requested a separation on 4 January 2006, and therefore a MMSI code of H3 (Civilian Break) is the correct code on his NGB Form 23A. The opinion was coordinated with the assistance of the PAARNG.

6. On 26 January 2024, by email, the applicant responded to the NGB advisory opinion and stated, he received the advisory opinion and read through it, "which reads the same as what Pennsylvania presented to the Congresswoman's office." He was advised by his G-1 to do an ABCMR and what to upload to the site, where the documents show as not received. He wanted to ensure they were received as it was the opinion of the G-1 that his status was incorrectly reflected during that time period.

7. The applicant attached the entire National Guard Regulation (NGR) 680-2 (Automated Retirement Points Accounting Management) and highlighted page 39, which defines E5 MMSI code as Control Group (Delayed Entry) for Soldiers enlisted into the DEP for later entry into a regular service, which is stated in the memo.

#### BOARD DISCUSSION:

1. The applicant's contentions, the military record, and regulatory guidance were carefully considered. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted.

2. The applicant requested correction of his NGB Form 23A to change his Military Member Status Identifier code to E5 instead of H3 for the period for the period of 5 August 2005 thru 5 February 2006.

3. Enlistment contracts (DD Forms 4) are not completed until the individual reports to MEPS to ship for training. The applicant does not have a DD Form 4 for that period of service, because he did not report to MEPS to ship on 5 January 2006, instead he requested a separation on 4 January 2006, and therefore a MMSI code of H3 (Civilian Break) is the correct code on his NGB Form 23A. There does not appear to be an error or injustice.

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.

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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. Department of Defense Financial Management Regulation, Volume 7A, Chapter 1, states in:

a. Section 010102 (Computation of Creditable Service), for most members who enter and serve on active duty without a break in service, the basic pay date is the date the member enters active or inactive service. If, however, there is a break in service, the time between periods of service usually is not included. Also, there are statutory periods when service in a particular component may not be counted.

b. Section 010103 (Creditable Service Periods), include active or inactive service in any of the following components without restriction: Army of the United States (service without specification of component), Army National Guard, Army National Guard of the United States, National Guard, National Guard of the United States, and Regular service in the Army.

c. Section 010104 (Other Creditable Service with restrictions as noted), subsection M.2. (For enlistments entered into on or after 29 November 1989) provides that:

(1) A period of enlisted service in a Reserve Component under Title 10 United States Code (USC), Section 12103(b) or (d), including inactive service under a Delayed Entry Program, is creditable service "only if the member performs inactive duty training before beginning active duty or an initial period of active duty for training."

(2) Service performed as an enlisted member in a Reserve Component under Title 10, USC, Section 513, other than a period of active duty, is not creditable service.

2. Title 10, USC, Section 12103 (Reserve components: terms), subsection (b) provides that, under regulations to be prescribed by the Secretary of Defense a person who is qualified for enlistment for active duty in an Armed Force, and who is not under orders to report for induction into an Armed Force under the Military Selective Service Act (50 U.S.C. App. 451 et seq.), may be enlisted as a Reserve for service in the Army Reserve for a term of not less than six years no more than eight years. Each person enlisted under this subsection shall serve (1) on active duty for a period of not less than two years; and (2) the rest of his period of enlistment as a member of the Ready Reserve.

3. Department of Defense Instruction (DODI) 1215.07 (Service Credit for Non-Regular Retirement) establishes policy, assigns responsibilities, prescribes procedures, and establishes requirements for crediting active and reserve service for non-regular retirement in accordance with Chapter 1223 of Title 10, USC. In pertinent part:

a. Paragraph 3.1.b. (Establishing an Anniversary Year) states, (1) Base the full-year periods used to determine a creditable year of qualifying service toward a non-regular retirement on anniversary dates as set out in this issuance. (2) Except as noted in Paragraph 3.1.d., calculate anniversary year periods from an anniversary date. The date the Service member entered into active service or active status in a Reserve Component establishes the anniversary year.

b. Paragraph 3.1.c. (Adjusting Anniversary Years) states, (1) The start date month and day for each successive anniversary year will not change unless the Service member has a break in service. A Service member who transitions directly (next day) from the Active Component to the Reserve Component (RC) is not considered to have had a break in service; accordingly, that Service member's anniversary date will not change. (2) A Service member who returns to an active status in the RC after a break in service will have a revised anniversary year. The anniversary year start date will change to the return or reentry date.

4. NGR 680-2 (Automated Retirement Points Accounting Management) prescribes the Retirement Points Accounting Management (RPAM) application in the Reserve Component Automation System as the system of record for ARNG/Army National Guard of the United States Soldiers. Appendix L (RPAM and Report Codes) defines code E5 as Control Group (Delayed Entry) (Note 4b). Note 4b states, "Control Group (Delayed Entry) (MMSI E5): Soldiers enlisted into the DEP for later entry into a regular Service." MMSI code H3 is defined as Non-Military, Civilian Break.

5. Army Regulation 15–185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. In pertinent part, it states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR will decide cases based on the evidence of record. It is not an investigative agency.

//NOTHING FOLLOWS//