

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 March 2024

DOCKET NUMBER: AR20230006605

APPLICANT REQUESTS: in effect, two retirement points for the retirement year ending on 19 September 2018.

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

- DD Form 149 (Application for Correction of Military Record)
- Reserve Health Readiness Program (RHRP) Voucher for Service Number 7091279
- RHRP Voucher for Service Number 7135292
- DA Form 1380 (Record of Individual Performance of Reserve Duty Training)
- 422nd Medical Detachment Memorandum, Subject: Verification of Medical Readiness Completion for Staff Sergeant (SSG) [REDACTED] (the applicant)
- E-mail with Reserve Personnel Action Center (RPAC)

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 effect, he requests to be awarded two retirement points for the retirement year ending 19 September 2018 for two RHRP appointments which he was required to attend but was never paid or awarded retirement points. He began the process in July of 2022 to get his record corrected through his chain of command and was directed to the 99th Readiness Division (RD). He has provided a memorandum for record from his current commander, the vouchers for the appointments and the DA Form 1380 which he had submitted.

3. A review of the applicant's service record shows:

a. On 20 September 2002, the applicant enlisted in the U.S. Army Reserve (USAR) and had continuous service through reenlistments.

b. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was ordered to active duty on 5 August 2003. It also shows the applicant was honorably released from active duty on 28 April 2004 after completion of 8-months and 24-days of active service.

c. On 19 January 2006, Orders Number A-01-601499, issued by the U.S. Army Human Resources Command, the applicant was ordered to active duty in support of Operation Iraqi Freedom, effective 29 January 2006.

d. On 16 August 2006, the applicant was honorably released from active duty. DD Form 214 shows the applicant completed 6-months and 18-days of active service.

e. On 29 June 2007, Orders Number 07-180-00066, issued by 8th Medical Brigade, the applicant was ordered to active duty in support of Operation Iraqi Freedom, effective 1 August 2007.

f. On 11 September 2008, the applicant was honorably released from active duty. DD Form 214 shows the applicant completed 1-year, 1-month and 11-days of active service.

g. On 8 December 2011, Orders Number 11-342-00004, issued by 3rd Medical Deployment Support Command, the applicant was ordered to active duty in support of Operation Enduring Freedom, effective 12 February 2012.

h. On 23 December 2012, the applicant was honorably released from active duty. DD Form 214 shows the applicant completed 10-months and 12-days of active service.

i. DA Form 5016 (Retirement Accounting Statement) dated 26 October 2023 shows the applicant obtained 30 Inactive Duty Training (IDT) points, 15 membership points and 4 Active Duty Training (IDT) points for a total of 49 creditable points for retirement year ending 20 September 2018.

j. DA Form 5016 dated 9 November 2023 shows the applicant obtained 30 IDT points, 15 membership points and 3 ADT points for a total of 48 creditable points for retirement year ending 19 September 2018.

l. On 25 January 2024, Orders Number 7085279, issued by the Department of the Army, the applicant will be reassigned to the USAR Control Group (Retired Reserve), effective 30 September 2024.

4. The applicant provides:

a. RHRP Voucher for Service Number 7091279 which shows the applicant had a dental appointment on 2 October 2017 that was verified that he completed the appointment.

b. RHRP Voucher for Service Number 7135292 which shows the applicant had a Periodic Health Assessment (PHA) appointment on 10 October 2017 that was verified by the provider he completed the appointment.

c. DA Form 1380 dated 27 July 2022 which shows the applicant completed a dental appointment on 2 October 2017 for 4-hours of duty to be awarded one non-paid retirement point and a PHA on 10 October 2017 for 4-hours of duty to be awarded one non-paid retirement point. The DA Form 1380 was signed by Major (MAJ) [REDACTED] Commander, 422nd Medical Detachment on 27 July 2022.

d. 422nd Medical Detachment Memorandum for Record, Subject: Verification of Medical Readiness Completion for SSG [REDACTED] (the applicant) which shows the commander verified the applicant completed his dental appointment on 2 October 2017 and PHA appointment on 10 October 2017.

e. E-mail with the RPAC which shows the RPAC informed the applicant on 22 September 2022 his DA Form 1380 non-paid retirement points was sent to the commander for signature. He was also in effect, informed it was not guaranteed to be approved.

5. On 17 October 2023, in the processing of this case, the U.S. Army Reserve Command, provided an advisory opinion regarding the applicant's request to be awarded two non-paid retirement points. The advisory official stated after review of the applicant's documents it was recommended, he receive full relief, he should be awarded the two points.

6. On 19 October 2023, the Army Review Boards Agency, Case Management Division provided the applicant the advisory opinion for review and comment. 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 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, United States Army Reserve Command- Soldier Programs Branch

advisory opinion, the Board concurred with the advising official recommendation for approval finding the applicant should be awarded the two (2) in accordance with regulatory guidance AR 140-185. The Board determined, based on regulatory guidance and advisory opine relief, there is sufficient evidence to grant relief awarding two retirement points for the retirement year ending on 19 September 2018.

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 to show the applicant submitted his DA Form 1380's in a timely manner and should be awarded two (2) retirement points for the retirement year ending on 19 September 2018.

3/19/2024

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, USC, 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 (AR) 140-1 (Mission, Organization, and Training), provides policy guidance on the mission, organization, and training of the U.S. Army Reserve (USAR). It does not contain guidance on preparation for order to active duty under a mobilization situation. Paragraph 3-11 (Equivalent training (ET)), ET is performed in lieu of scheduled training (either RST or, UTA or MUTA). Pay or retirement point credit or both is authorized. ET must be accomplished within 60-days after the training for which it is substituted, or by the end of the training year (fiscal year) if within 60-days of that date. An explanation of the circumstances will be included, with a statement that the ET, if granted, will not cause the Soldier to exceed the 48 paid unit assemblies for the fiscal year. a. ET is limited to Soldiers who have missed a UTA, MUTA, or RST due to unforeseen personal emergencies and desire to make it up. No more than 4 UTAs may be made up during a fiscal year. b. ET given will be the same type and quality as the training missed. It will be appropriate to, and enhance the ability of, Soldiers to carry out their assigned duties. For staff or support personnel, this may include duty which enhances unit training, management, or readiness. c. ET must be at least as long as the training missed. d. ET will not be granted for assemblies missed due to ADT.

3. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records), in effect at the time, prescribes the types of training and activities or which retirement points are authorized and the procedures for recording retirement point credits and training for members of the U.S. Army Reserve (USAR) Soldiers.

a. Paragraph 2-1 (Criteria for crediting retirement points), the limitations on the number of points which may be credited to a Soldier during a retirement year area. Maximum-365 (366 during leap year) points. Maximum for inactive duty training (IDT) 60 points for IDT and membership points. However, Annual or Terminal Statement of Retirement Points will report all points earned.

b. Paragraph 2-2 (Criteria for earning retirement points) states retirement points may be earned by U.S. Army Reserve Soldiers for active duty or duty in an active status for active duty for training (ADT), initial active duty for training (IADT), involuntary active duty for training (involuntary ADT), voluntary IDT, annual training (AT), IDT, membership points, and for other activities specified in this regulation.

c. Paragraph 2-4 (Criteria for awarding retirement points), 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. Table 2-1 provides criteria for award of retirement points for IDT performed in accordance with AR 140-1 (unless another reference is cited). Most types of IDT are covered by one of the following rules on required duration of IDT and calendar day limitations on points.

- Four-hour rule; Soldiers earn one point for each scheduled 4-hour period of IDT at Battle Assembly, Rescheduled Training (RST), Equivalent Training, or Additional Training Assemblies
- Two-hour rule; Soldiers earn one point for each IDT period per day for funeral honors duty with a maximum of one point per calendar day
- Four/eight-hour rule; Soldiers earn one point for each 4 hour or greater period, award of a second point in the same day requires additional hours to bring the day's total to a minimum of 8 hours for a maximum of two points in 1 calendar day

d. Paragraph 3-3 (DA Form 1380) states nonpaid DA Forms 1380 will not be entered into Automated Drill Attendance Reporting Software (ADARS) and will be forwarded to HRC for award of retirement points no later than the end of each duty month. 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. The authorization for the training reported on DA Form 1380 must be entered in item 10 to include approving headquarters and date of approval.

3. Department of Defense Instruction (DoDI) 1215.07 (Service Credit for Non-Regular Retirement) states inactive duty may be credited for each attendance at an inactive duty training period. A maximum of 2 retirement points for attendance at inactive duty training periods or equivalent training, in any 1 calendar day. The Service member's participation is without payment other than the pay to which the Service member is entitled as a Reserve Component member. Credit no more than one retirement point for fewer than 8 hours.

//NOTHING FOLLOWS//