

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 March 2024

DOCKET NUMBER: AR20230007336

APPLICANT REQUESTS: in effect,

- 10 retirement points for the retirement year ending on 6 November 2019
- 42 retirement points for the retirement year ending on 6 November 2020
- 24 retirement points for the retirement year ending on 6 November 2021

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 1380 (Records of Individual Performance of Reserve Duty Training) for October 2019
- DA Form 1380 for November 2019
- DA Form 1380 for January 2020
- DA Form 1380 for February 2020
- DA Form 1380 for March 2020
- DA Form 1380 for April 2020
- DA Form 1380 for May 2020
- DA Form 1380 for June 2020
- DA Form 1380 for July 2020
- DA Form 1380 for September 2020
- DA Form 1380 for October 2020
- DA Form 1380 for November 2020
- DA Form 1380 for December 2020
- DA Form 1380 for January 2021
- DA Form 1380 for February 2021
- DA Form 1380 for March 2021
- DA Form 1380 for April 2020
- DA Form 1380 for May 2021

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 needs correction of his retirement points to award him 76 for years ending 2019, 2020 and 2021. He was to be coded for points only, but his unit did not have the DA Forms 1380 for the time he attended battle assemblies. He has provided the DA Forms 1380 for the period he attended battle assemblies. He requests:

- 10 retirement points for the retirement year ending on 6 November 2019
- 42 retirement points for the retirement year ending on 6 November 2020
- 24 retirement points for the retirement year ending on 6 November 2021

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

a. With prior enlisted U.S. Marine Corps and U.S. Army Reserve (USAR) service, the applicant executed his oath of office on 1 April 2010 and was appointed a Reserve commissioned officer in the rank of second lieutenant.

b. On 29 September 2010:

(1) Orders Number 10-272-00004, issued by Headquarters (HQs), 81st Regional Support Command (RSC), the applicant was honorably discharged from the USAR, effective 31 March 2010.

(2) Orders Number C-09-013813, issued by the U.S. Army Human Resources Command (HRC), the applicant was appointed and assigned in a USAR Troop Program Unit (TPU), effective 1 April 2010.

c. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant was ordered to Active Duty for Training (ADT) effective 27 March 2011. And on 14 July 2011, he was honorably released from ADT. It also shows the applicant completed 3-months and 18-days of active service.

d. The applicant was ordered to active duty for named operations and ADT.

e. On 19 February 2015, Orders Number 15-050-00014, issued by HQs, 99th RSC, the applicant was assigned to the 5th Logistics Civil Augmentation Program (LOGCAP) Support (SPT) Battalion (BN), effective 18 March 2015.

f. On 16 December 2016, Orders Number HR-6351-00023, issued by HRC, the applicant was ordered to Active Duty for Operational Support (ADOS), effective 6 January 2017.

g. On 11 September 2017, Orders Number UW-254-0002, issued by HQs, 377th Theater Sustainment Command, the applicant was ordered to active duty in support of Operation Enduring Freedom, effective 1 October 2017.

h. On 26 September 2017, the applicant was honorably released from active duty. DD Form 214 shows the applicant completed 8-months and 21-days of active service.

i. On 1 October 2017, the applicant entered active duty. And on 20 September 2018, the applicant was honorably released from active duty. DD Form 214 shows the applicant completed 11-months and 20-days of active service.

j. DA Form 67-10-2 (Field Grade Plate Officer Evaluation Report OER)) for the period of 3 October 2019 through 2 October 2020, the applicant was rated as the Detachment Officer in Charge. His rater was Lieutenant Colonel (LTC) [REDACTED] and his senior rater was Colonel (COL) [REDACTED]. His rater commented he was relied upon to serve as the commander in the absence of the actual.

k. On 17 December 2020, Orders Number 20-352-00007, issued by the USAR Sustainment Command, the applicant was assigned to the USAR Forward Detachment, effective 17 December 2020.

l. On 19 February 2021, Orders Number 21-050-00001, issued by the USAR Sustainment Command, the applicant was assigned to the 5th LOGCAP SPT BN, effective 19 February 2021.

m. DA Form 67-10-2 for the period of 3 October 2020 through 6 May 2021, the applicant was rated as the Detachment Officer in Charge. His rater was LTC [REDACTED] and his senior rater was COL [REDACTED]. His rater commented he was relied upon to serve as the senior officer in the absence of the commander and executive officer.

n. On 15 March 2023, Orders Number VY-074-0002, issued by the USAR Sustainment Command, the applicant was ordered to active duty in support of Operation Enduring Freedom, effective 31 May 2023.

o. DA Form 5016 (Retirement Accounting Statement) dated 6 December 2023, shows the applicant obtained for:

- retirement year ending 6 November 2019 – 26 Inactive Duty Training (IDT) points, 15 membership points, and 13 ADT points for a total of 54 creditable points
- retirement year ending 6 November 2020 – 8 IDT points, 15 membership points and 9 ADT points for a total of 32 creditable points

- retirement year ending 6 November 2021 – 9 IDT points, 15 membership points, and 2 ADT points for a total of 26 creditable points

4. The applicant provides:

a. DA Form 1380 dated 30 January 2023 which shows the applicant attended Battle Assembly (BA) during the period of 4 through 6 October 2019 for 8-hours of duty each day to be awarded two non-paid points for each day of duty, totaling 6 retirement points. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

b. DA Form 1380 dated 30 January 2023 which shows the applicant attended BA during the period of 2 through 3 November 2019 for 8-hours of duty each day to be awarded two non-paid points for each day of duty, totaling 4 retirement points. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

c. DA Form 1380 dated 30 January 2023 which shows the applicant attended BA during the period of 10 through 12 January 2020 for 8-hours of duty each day to be awarded two non-paid points for each day of duty, totaling 6 retirement points. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

d. DA Form 1380 dated 30 January 2023 which shows the applicant attended BA during the period of 8 through 9 February 2020 for 8-hours of duty each day to be awarded two non-paid points for each day of duty, totaling 4 retirement points. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

e. DA Form 1380 dated 30 January 2023 which shows the applicant attended BA during the period of 7 through 8 March 2020 for 8-hours of duty each day to be awarded two non-paid points for each day of duty, totaling 4 retirement points. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

f. DA Form 1380 dated 5 April 2020 which shows the applicant performing administrative duties, conference calls and completing Defense Acquisition University courses during the period of 3 through 5 April 2020 for 8-hours of duty each day to be awarded two non-paid points for each day of duty, totaling 6 retirement points. The DA Form 1380 was signed by Major (MAJ) [REDACTED] Executive Officer on 10 April 2020 having knowledge the applicant performed the duty.

g. DA Form 1380 dated 30 January 2023 which shows the applicant attended BA virtually during the period of 16 through 17 May 2020 for 8-hours of duty each day to be awarded two non-paid points for each day of duty, totaling 4 retirement points. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

h. DA Form 1380 dated 30 January 2023 which shows the applicant attended UTA virtually during the period of 6 through 7 June 2020 for 8-hours of duty each day to be awarded two non-paid points for each day of duty. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

i. DA Form 1380 dated 30 January 2023 which shows the applicant attended BA virtually during the period of 11 through 12 July 2020 for 8-hours of duty each day to be awarded two non-paid points for each day of duty, totaling 4 retirement points. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

j. DA Form 1380 dated 30 January 2023 which shows the applicant attended BA virtually during the period of 12 through 13 September 2020 for 8-hours of duty each day to be awarded two non-paid points for each day of duty, totaling 4 retirement points. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

k. DA Form 1380 dated 30 January 2023 which shows the applicant attended BA virtually during the period of 4 September and 3 October 2020 for 8-hours of duty each day to be awarded two non-paid points for each day of duty, totaling 4 retirement points. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

l. DA Form 1380 dated 30 January 2023 which shows the applicant attended BA virtually during the period of 6 through 7 November 2020 for 8-hours of duty each day to be awarded two non-paid points for each day of duty, totaling 4 retirement points. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

m. DA Form 1380 dated 30 January 2023 which shows the applicant attended BA and virtual Sexual Harassment/Assault Prevention refresher training during the period of 5 December 2020 for 8-hours of duty to be awarded two non-paid points. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

n. DA Form 1380 dated 30 January 2023 which shows the applicant attended BA virtually during the period of 9 through 10 January 2021 for 8-hours of duty each day to be awarded two non-paid points for each day of duty, totaling 4 retirement points. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

o. DA Form 1380 dated 30 January 2023 which shows the applicant attended BA virtually during the period of 6 February and 7 July 2021 for 8-hours of duty each day to be awarded two non-paid points for each day of duty, totaling 4 retirement points. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

p. DA Form 1380 dated 30 January 2023 which shows the applicant attended BA virtually during the period of 6 through 7 March 2021 for 8-hours of duty each day to be awarded two non-paid points for each day of duty, totaling 4 retirement points. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

q. DA Form 1380 dated 30 January 2023 which shows the applicant attended BA virtually during the period of 10 through 11 April 2021 for 8-hours of duty each day to be awarded two non-paid points for each day of duty, totaling 4 retirement points. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

r. DA Form 1380 dated 30 January 2023 which shows the applicant attended BA virtually during the period of 15 through 16 May 2021 for 8-hours of duty each day to be awarded two non-paid points for each day of duty, totaling 4 retirement points. The DA Form 1380 was signed by LTC [REDACTED] Commander on 30 January 2023 having knowledge the applicant performed the duty.

5. On 10 October 2023, in the processing of his case, HQs, U.S. Army Reserve Command provided an advisory opinion regarding the applicant's request to be awarded non-paid retirement points. The advisory official stated after review of the applicant's documents, it was recommended to grant full relief. He should be awarded 76 retirement points.

6. On 12 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- Soldiers Program Brach advisory opinion, the Board concurred with the advising official recommendation to grant relief finding sufficient evidence to support the applicant should be awarded seventy-six (76) points based off regulatory guidance in accordance with AR 140-185. Based on the preponderance of evidence, and the advisory opine, the Board granted relief to award the applicant 76 points for the retirement years ending in 2019, 2020 and 2021.

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 seventy-six (76) points for the periods of

- 10 retirement points for the retirement year ending on 6 November 2019
- 42 retirement points for the retirement year ending on 6 November 2020
- 24 retirement points for the retirement year ending on 6 November 2021

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), prescribes policy for U.S. Army Reserve (USAR) training and retirement point credit.

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. Retirement points credited for activities other than active service or funeral honors may not exceed 130 retirement points for anniversary years closing on or after 30 October 2007. Inactive duty training (IDT) will be either 4 hours in length for one retirement point or 8 hours in length for two retirement points, with the exception of the 2-hour IDT funeral honors duty.

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 training of individual Soldier in a non-pay status.

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), DA Form 1380 will be prepared for a unit Soldier who performs ET or additional training with their unit subsequent to the scheduled BA. 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 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. Table 3-1 provides that the code "N" will be entered for RST. The code "N" indicates the Soldier is entitled to retirement point credit only.

4. 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.

5. Office of the Chief of Army Reserve Coronavirus Disease (COVID-19) Update: Soldier Virtual Battle Assembly Policy dated 3 April 2020, stated, commander should give Soldiers credit for their individual Soldier readiness, resilience and self-development operations during the course of the month including physical and virtual/online activities that further that effect; it may also be executed through the liberal application of a rescheduled training policy that captures worked executed in March 2020 and in the coming months. Soldiers may be paid accordingly through a chain of command that maintains monthly accountability of the individual Soldier's status.

//NOTHING FOLLOWS//