

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 February 2024

DOCKET NUMBER: AR20230007516

APPLICANT REQUESTS: entitlement to Reserve Retirement benefits.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored letter (son)
- Memorandum – Subject: Request for Amendment of Orders, 8 January 1969
- Letter Orders Number 12-1848, 15 December 1969
- Honorable Discharge Certificate, 24 August 1968
- Statement of Service, 16 October 1969
- Chronological Record of Military Service
- Self-authored letter, 24 August 1995
- Certificate of Death
- Certificate of Marriage
- Service Certificates
- Newspaper Article
- WD AGO Form 53-280 (Enlisted Record and Report of Separation Certificate of Service), 10 August 1949
- Special Orders Number 200, 27 October 1966
- Letter Orders Number 7-2805, 25 July 1968
- Memorandum – Subject: Request for Amendment of Orders, 3 June 1969
- Self-authored letter
- Memorandum – Subject: Pay Period for Months of February and March 1950, 20 January 1950
- Self-authored letters
- Company Order Number 5, 1 March 1949
- Self-authored letter
- Special Orders Number 78, 30 April 1954
- Memorandum – Subject: Letter of Commendation, 13 June 1954
- Special Orders Number 160, 26 August 1954
- Special Orders Number 176, 10 September 1956
- Memorandum – Subject: Discharge from the U.S. Army Reserve (USAR), 14 September 1956

- Special Orders Number 173, 8 September 1959
- Special Orders Number 248, 24 December 1963
- Self-authored letters
- Certificate of Appreciation
- Special Orders Number 174, 7 September 1965
- Privacy Release Forms
- Department of the Army, U.S. Army Reserve Personnel Center letter, 26 September 1995
- Self-authored letters
- Certificate
- Letter Orders Number 7-2805, 25 July 1968
- Self-authored letters
- Veterans Administration letter, 16 January 1950
- Adjustment Division Army Finance Center letter, 5 July 1950
- Notice of Settlement of Claim, 14 July 1950
- Army Finance Center letter, 5 June 1950
- Memorandum – Subject: Recommendation for Promotion of Enlisted Members of the Army Reserve not on Extended Active Duty (EAD), 10 August 1953
- Memorandum – Subject: Pay Period for the Month of February and March 1950, 20 January 1950
- Special Orders Number 170, 30 August 1962
- Memorandum – Subject: Letter of Commendation, 13 June 1954
- Memorandum – Subject: Obligation of Enlisted Reservists Under the Selective Service Act of 1948, 25 August 1949
- Memorandum – Subject: Reserve Obligations Under Selective Service Act, 1948, 1 May 1950
- DD Form 4 (Enlistment Record – Armed Forces of the U.S.), 25 August 1956
- Self-authored letter
- Army Finance Center letter, 5 July 1950
- Self-authored letter

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. On behalf of the Former Service Member (FSM), the applicant (spouse of the FSM) provides in pertinent part that the FSM sought entitlement to his retirement pension and benefits for several years. Due to the fire occurring at the National Personnel Records Center (NPRC) in 1973, his records were destroyed. In a letter provided by the FSM's

son he contests that prior to the FSM being discharged from the Army, he had completed 20 years and 13 days of military service (11 August 1948 – 24 August 1968). The FSM's surviving spouse is now 90 years old with hopes of obtaining benefits on behalf of the FSM who died on 18 June 2020.

3. The FSMs military records are not available to the Board for review. A fire destroyed approximately 18 million service members' records at the NPRC in 1973. It is believed his records were lost or destroyed in that fire. However, there were sufficient documents provided by the applicant to conduct a fair and impartial review of this case. This case is being considered utilizing the documents provided by the applicant.

4. The applicant provides the following a:

a. Memorandum – Subject: Request for Amendment of Orders dated 8 January 1969, reflective of a submitted request to have the FSM's discharge order amended to reflect "24 August 1968" and the "Reason for Discharge" to reflect that the FSM completed 20 years of qualifying service for retirement under the provisions of Chapter 2, Army Regulation (AR) 135-180 (Qualifying Service for Retired Pay Nonregular Service). If he had been discharged on his normal Expiration Term of Service (ETS).

b. Letter Orders Number 12-1848 dated 15 December 1969, reflective of Letter Orders Number 7-2805 being amended to reflect a date of discharge "24 August 1968" rather than "31 July 1968."

c. Honorable Discharge Certificate dated 24 August 1968, reflective of the FSM being honorably discharged from the U.S. Army on 24 August 1968.

d. Statement of Service dated 16 October 1969, reflective of an account of the FSM's military service from 11 August 1948 – 31 July 1968. The FSM served in the Army of the U.S. from 11 August 1948 – 11 August 1949, the U.S. Army Reserve (USAR) Control Group (Reinforcement) from 11 August 1949 – 10 August 1954 and the USAR (Annual Training) from 11 August 1954 – 31 July 1968.

e. Chronological Record of Military Service, reflective of the FSMs creditable service completed between 11 August 1948 – 10 August 1969. During the period of 11 August 1949 – 10 August 1955, 11 August 1956 – 10 August 1959 and 11 August 1966 – 10 August 1969, the FSM failed to obtain the minimum "50 points" required to receive credit for qualifying year(s) of service. This document reflects 10 years (1265 points) of qualifying service towards retirement and 20 years 13 days of total service for longevity and pay purposes.

f. Self-authored letter dated 24 August 1995, reflective of the FSM seeking assistance with obtaining his retirement benefits from his congressional representative. The FSM notes that the incorrect date (25 July 1968) was initially indicated on his discharge order. However, this date was corrected to reflect 24 August 1968 and therefore should be entitled to retirement benefits. This letter is further provided in its entirety for the Board's review within the supporting documents.

g. Certificate of Death, reflective of the passing of the FSM.

h. Certificate of Marriage reflective of the FSM and the applicant being legally married in the State of [REDACTED]

i. Service Certificates reflective of the FSM being recognized for his honorable military service and commendable promotions while serving in the U.S. Army and USAR.

j. Newspaper Article reflective of the FSM being recognized for receiving the Outstanding Reservist Award on or about 9 November 1966.

k. WD AGO Form 53-280 dated 10 August 1949, reflective of the FSM's service on active duty from 11 August 1948 – 10 August 1949 and subsequent transfer into the USAR.

l. Special Orders Number 200 dated 27 October 1966, reflective of the FSM being promoted to the rank of sergeant major (SGM)/E-9.

m. Letter Orders Number 7-2805 dated 25 July 1968, reflective of the FSM being discharged from the USAR effective 31 July 1968 due to reaching his ETS date.

n. Memorandum – Subject: Request for Amendment of Orders dated 3 June 1969, reflective of the submitted request for a status on the FSM's discharge orders (Letter Orders Number 7-2805).

o. Self-authored letter reflective of the FSM's apology to Mr. [REDACTED] U.S. Army Reception Station for not visiting with him since being discharged from the military. This letter is further provided in its entirety for the Board's review within the supporting documents.

p. Memorandum – Subject: Pay Period for Months of February and March 1950 dated 20 January 1950, reflective of the announced amendment to the February – March 1950 training schedule.

q. Self-authored letters reflective of communication with the FSM's congressional representatives regarding the FSM's eligibility for retirement benefits. All parties were advised that after reviewing the FSM's records, he would be advised directly of the final decision.

r. Company Order Number 5 dated 1 March 1949, reflective of the FSM being promoted to the rank of private first-class grade five.

s. Self-authored letter dated 3 May 1950, reflective of the FSM's response to his unit leadership regarding his intentions to fulfill his obligation to the USAR.

t. Special Orders Number 78 dated 30 April 1954, reflective of the FSM's promotion from sergeant (E-5) to the rank of sergeant first class (E-6).

u. Memorandum – Subject: Letter of Commendation dated 13 June 1954, reflective of the FSM being recognized for his outstanding performance as a squad leader during annual training.

v. Special Orders Number 160 dated 26 August 1954, reflective of the FSM being reassigned to Headquarters, Camp Polk Reception Station (Detachment 2) on or about 1 September 1954.

w. Special Orders Number 176 dated 10 September 1956, reflective of the FSM being released from assignment and reassigned due to immediate reenlistment.

x. Memorandum – Subject: Discharge from the USAR dated 14 September 1956, reflective of the applicant being discharged for immediate reenlistment on 25 August 1956.

y. Special Orders Number 173 dated 8 September 1959, reflective of an excerpt of a military order pertaining to the reenlistment and reassignment of several military personnel.

z. Special Orders Number 248 dated 24 December 1963, reflective of the FSM being appointed to the pay grade of E-8 and appointed as first sergeant (1SG).

aa. Self-authored letters, reflective of the FSM's employer being recognized for his support of the FSM fulfillment of his military service obligation and his response to being recognized for his support.

bb. Certificate of Appreciation reflective of the U.S. Gas Company being recognized for their faithful and cooperative spirit in the release of employees for performance of military duties.

cc. Special Orders Number 174 dated 7 September 1965, reflective of the applicant being honorably discharged for immediate reenlistment on 24 August 1965.

dd. Privacy Release Forms, reflective of the applicant's and the FSM's son's authorized release of information pertaining to the FSM's military service. The applicant was requesting assistance with obtaining an explanation as to why the FSM did not receive his military retirement pension despite his completion of 20 years.

ee. Department of the Army, U.S. Army Reserve Personnel Center letter dated 26 September 1995, reflective of their response to Senator [REDACTED] concerning the FSM's military service. He was advised that an extensive search was conducted and failed to locate the FSM's military records and were further unable to verify his military service between 11 August 1948 – 24 August 1968. Therefore, the FSM was asked to provide documentation to support his military service to include units of assignment and location.

ff. Self-authored letters, reflective of the Office of the Secretary of the Army's response to the inquiry concerning the FSM's military service. The U.S. Army Reserve Components Personnel and Administrative Center was only able to verify 10 years of qualifying service towards retirement. Unfortunately, there is no provision for payment of retirement benefits to persons who have completed less than the 20 years of qualifying service. These letters are provided in their entirety for the Board's review within the supporting documents.

gg. Certificate, reflective of the FSM being recognized for his promotion to corporal on 16 April 1949.

hh. Letter Orders Number 7-2805 dated 25 July 1968, reflective of the FSM being discharged from the Army on 31 July 1968 due to reaching his ETS date.

ii. Self-authored letters reflective of assistance provided to the FSM concerning pay and entitlements while he was serving in the USAR.

jj. Veterans Administration letter dated 16 January 1950, reflective of communication concerning payment of term insurance premiums. The FSM was required to make payment of \$13.00 in order to have coverage reinstated.

kk. Adjustment Division Army Finance Center letter dated 5 July 1950, reflective of a claim submitted on behalf of the FSM. The Office of the Chief of Finance advised that payment would not be provided by their office.

ll. Notice of Settlement of Claim dated 14 July 1950, reflective of the FSM being paid \$250.00 in response to his submitted claim for payments not made between 1 April 1949 – 10 August 1949 at a rate of \$50.00 per month.

mm. Army Finance Center letter dated 5 June 1950, reflective of unsuccessful attempts to obtain the FSM's pay records.

nn. Memorandum – Subject: Recommendation for Promotion of Enlisted Members of the Army Reserve not on EAD dated 10 August 1953, reflective of the FSM being recommended for promotion to sergeant first class.

oo. Memorandum – Subject: Pay Period for the Month of February and March 1950 dated 20 January 1950, reflective of the announced amendment to the February – March 1950 training schedule.

pp. Special Orders Number 170 dated 30 August 1962, reflective of the FSM being honorably discharged on 24 August 1962.

qq. Memorandum – Subject: Letter of Commendation dated 13 June 1954, reflective of the applicant being recognized for outstanding performance as a squad leader during annual training.

rr. Memorandum – Subject: Obligation of Enlisted Reservists Under the Selective Service Act of 1948 dated 25 August 1949, reflective of the FSM being advised of his service obligation under the Selective Service Act of 1948. Six (6) year reservist are required to obtain 3 points per month of satisfactory service or a fractional part – 2 points per month.

ss. Memorandum – Subject: Reserve Obligations Under Selective Service Act, 1948 dated 1 May 1950, reflective of the FSM being advised that a review of his service records revealed that he was failing to fulfill his obligation as a 6-year reservist as required by the Selective Service Act of 1948.

tt. DD Form 4 dated 25 August 1956, reflective of the FSM's 3-year enlistment in the USAR.

uu. Self-authored letter, reflective of the FSM's congressional representative's response to his inquiry for assistance. The FSM was advised that all documentation provided was sent forward to the Army Finance Center for adjudication.

vv. Army Finance Center letter dated 5 July 1950, reflective of their acknowledgement of the FSM's congressional representative's submitted documentation concerning the FSM's claim.

ww. Self-authored letter reflective of the FSM's congressional representative's submitted inquiry concerning a status on the adjudication of the FSM's submitted claim.

5. On behalf of the FSM, the applicant did not provide nor review of his available service records reflect evidence of a Notification of Eligibility for Retired Pay at Age 60 (Twenty Year Letter), DA Form 5016 (Chronological Statement of Retirement Points) or other documentation indicative of 20 years of qualifying service.

#### 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 former service member's (SM) record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Based upon the evidence showing the applicant's original separation order (7-2805) being amended after the FSM's original separation date to reflect additional service credit (changing the discharge date from 31 July 1968 to 24 August 1968, in Order 12-1848), the Board determined there is sufficient evidence to support SGM Bouligny completed 20 years of qualifying service for retirement. Therefore, the Board determined there was sufficient evidence of an error or injustice warranting relief.

The Board determined the FSM should be issued a 20-year letter and be entitled to the appropriate retirement benefits.



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:

- amending the FSM's separation order (7-2805) to reflect:
  - changing Reason (Discharge) from "Expiration of Term of Obligated Service" to "Transfer to Retired Reserve"
- issuing a 20-year NOE retirement letter, dated 24 August 1968
- amending the applicant's record to reflect he properly applied for retirement at age 60 (24 October 1989)
- providing back pay starting at age 60
- permitting his spouse to receive his retirement benefits or, in the event she passes prior to effecting the records update, that his children receive them

3/29/2024

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. 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. AR 135-180 (Qualifying Service for Retired Pay – Non-Regular Service), 15 March 1965 in effect at the time, implements statutory authorities governing the granting of retired pay to members and former members of the Reserve components. Paragraph 5 (Eligibility) provides that to be eligible for retired pay, an individual need not have military status at the time of application, but must have –

- attained age 60
- completed a minimum of 20 years of qualifying service
- served the last 8 years of qualifying service as a member of the Reserve component

Paragraph 11 (Service Creditable as Qualifying Service) provides that a reservist must earn a minimum of "50 retirement points" each retirement year to have that year credited as qualifying service. Only members assigned to an active status in a Reserve component or individuals in active Federal service are authorized to earn retirement point credits. When a person is in an active status for a period less than a full retirement year a minimum number of retirement points are required to be earned in order to have that period credited as qualifying service.

3. Title 10, USC, section 12731(a) provides that Reserve Component Soldiers who complete the eligibility requirements will be notified in writing within 1 year after completion of the required service. The Notification of Eligibility for Retired Pay at Age 60 (20 Year Letter) will be issued to Soldiers credited with 20 years of qualifying service and should be issued prior to discharge or transfer to the Retired Reserve.

4. AR 15-185 (ABCMR) paragraph 2-9 states 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.

//NOTHING FOLLOWS//