

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 April 2024

DOCKET NUMBER: AR20230007740

APPLICANT REQUESTS: in effect, his DA Form 5016 (Retirement Accounting Statement) to be updated to reflect:

- active Federal service for the period of 23 May 2007 through 15 September 2014
- correct career total of qualifying service for retirement

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty) service ending 15 September 2014
- DA Form 5016

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, after his Regular Army (RA) service, he was transferred to the U.S. Army Reserve (USAR); however, his DA Form 5016 was not updated to credit him with his active service retirement points.

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

a. The applicant enlisted in the USAR on 31 May 2005.

b. The applicant's DD Form 214 shows he was ordered to active duty for training on 27 July 2005. He was honorably released from active duty on 10 November 2005. DD Form 214 shows the applicant completed 3-months and 14-days of active service.

c. The applicant enlisted in the RA on 23 May 2007.

d. On 6 June 2007, Orders Number 07-157-00009, issued by Headquarters (HQs), 99th Regional Readiness Command, retroactively honorably discharged the applicant from the USAR for enlistment in the RA, effective 22 May 2007.

e. The applicant reenlisted in the RA on 22 December 2008.

f. On 19 May 2014, Orders Number 139-1004, issued by HQs, U.S. Army Garrison, Fort Drum, the applicant was discharged from active duty and assigned to a USAR Troop Program Unit, effective 15 September 2014.

g. The applicant was honorably released from active duty on 15 September 2014. DD Form 214 shows the applicant completed 7-years, 3-months and 23-days of active service. It also shows in items:

- Item 12c (Net Active Service This Period): 7-years, 3-months and 23-days
- Item 12d (Total Prior Active Service): 3-months and 14-days

h. The applicant reenlisted in the USAR on 3 January 2017 and on 6 November 2019.

4. The applicant provides DA Form 5016 dated 11 June 2023 which shows he was not awarded active duty points for the period of 23 May 2007 through 14 September 2014; however, he was awarded 15 membership points for each full year of service and 5 membership points for the period of 13 May 2014 through 14 September 2014. It also shows the applicant has 0-years, 0-months, and 0-days of qualifying service for retirement in his career totals.

5. On 20 October 2023, in the processing of this case, HQs, U.S. Army Reserve Command, provided an advisory opinion regarding the applicant's request for retirement points for his active Federal service. The advisory official stated after review of the applicant's documents it was determined he should be awarded 7 years and 4 months of active Federal service.

6. On 30 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:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.

2. The Board found the evidence clearly shows the applicant’s DA Form 5016 omits his period of active duty service. The Board determined the DA Form 5016 should be updated to reflect that service.

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 updated his DA Form 5016 to reflect his active duty service from 23 May 2007 through 15 September 2014.

8/18/2024

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 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. No more than one retirement point may be awarded for any day in which the Soldier is on active duty. A Soldier in active service may not receive retirement points for other activities performed concurrently. Retirement points credited for activities other than active service or funeral honors duty may not exceed for anniversary years closing on or after 30 October 2007: 130 retirement 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 are awarded 1 point for each calendar day they serve and may not be awarded additional points for other activities while in such status.

d. Paragraph 3-1, the Army Training Requirements and Resources System (ATRRS) training transcript, DD Form 214 (Certificate of Release or Discharge from Active Duty), DD Form 215 (Correction to DD Form 214, Certificate of Release or Discharge from Active Duty), DD Form 220 (Active Duty Report), master military pay account, DFAS Form 702 (Defense Finance and Accounting Service Military Leave and Earnings Statement), DA Form 1379 (U.S. Army Reserve Components Unit Record of Reserve Training), DA Form 1380 (Army Reserve Record of Individual Performance of Reserve Duty Training), DA Form 5016, and the Reserve retirement repository are used to maintain and record the award and entitlement of retirement points.

e. Paragraph 3-6 (DD Form 214 (Certificate of Release or Discharge from Active Duty)), this form is issued to all individuals at time of release from the RA to include other Services or from AGR status. It is also issued to USAR Soldiers who complete 90 or more consecutive days of ADT or IADT. Retirement points at the rate of one per day are granted for the period from date of entry through the date of release from active duty. Only items listed in item 12a and 12b on the DD Form 214 listing the current active duty, may be used for award of retirement points.

3. Department of Defense Instruction 1215.07 (Service Credit for Non-Regular Retirement) states service members in AC or RC active service are eligible for retirement point credit. Credit active service at the rate of one retirement point per day of active service in the uniformed services. Award a maximum of 365 retirement points (366 retirement points in a leap year) in any anniversary year. One hundred and thirty retirement points for anniversary years closing on or after 30 October 2007.

//NOTHING FOLLOWS//