

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 June 2024

DOCKET NUMBER: AR20230012073

APPLICANT REQUESTS:

- Retirement pay in the rank of colonel (COL) vice lieutenant colonel (LTC)
- Personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Order No: 145-020 Promotion to LTC
- Order No: 142-005 Promotion to COL
- DD form 214 (Certificate of Release or Discharge from Active Duty)
- Summary of Retired Pay

FACTS:

1. The applicant states the Defense Finance and Accounting Service (DFAS) miscalculated his retirement pay based on a retirement rank of LTC when, in fact, he retired as a COL. He was notified by DFAS customer service this needed to be corrected by the Board before they could recalculate his retirement pay. He believes this was an administrative error on the part of the local military pay office.

2. The applicant provides a summary of his retired pay account from DFAS, 1 July 2023, which shows his retired pay rank as LTC. Since he entered the military after 7 September 1980, his retired pay is computed using his monthly base pay instead of his last active duty (AD) basic pay. The monthly base pay is the average of the 36 highest monthly basic pay rates he received on AD or if he were on AD for less than 36 months, it is the average monthly basic pay he received while serving.

3. The applicant's service record contains the following documents:

a. DA Form 71 (Oath of Office - Military Personnel) shows he took the oath of office as a Reserve commissioned officer on 25 February 2000.

b. Order Number 145-020, published by U.S. Army Human Resources Command (AHRC), 24 May 2016, promoted the applicant to LTC effective 18 June 2016.

c. Memorandum: Subject: Voluntary Retirement for (Applicant). Dated 19 April 2022, shows the applicant, in the rank of LTC, requested to be released from active duty on 30 June 2023 and placed on the retired list on 1 July 2023. He understood the provision of Army Regulation (AR) 600-8-24 (Officer Transfers and Discharge), table 6-1 or 6-2, pertaining to determination of his retired grade. Considering those provisions and after review of his records, he believed he was entitled to retire in the grade of O5, LTC. He understood final determination of his retired grade would be made by the Assistant Secretary of the Army and that he would be informed if he was not entitled to retire in the grade he had specified. His chain of command recommended approval of his voluntary retirement.

d. Order Number 142-005, published by AHRC, 22 May 2022, promoted him to COL effective 18 June 2022 with a date of rank of 18 June 2022. The date of Senate confirmation was 24 June 2021.

e. Orders 242-0004, published by Installation Management Command, 30 August 2022, show the applicant in the rank of COL and reassigned him for separation processing with a reporting date of 30 June 2023. He would be placed on the retirement list on 1 July 2023 and his retired grade was LTC.

f. DD Form 214 shows his rank as COL with an effective date of pay grade of 18 June 2022. He was honorably retired on 30 June 2023.

BOARD DISCUSSION:

1. The Board determined the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.
2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence of record shows the applicant was promoted to LTC on 18 June 2016. He was also promoted to COL on 18 June 2022. He requested and was approved for voluntary retirement effective 30 June 2023 and placed on the retired list on 1 July 2023. By law, a commissioned officer must serve on active duty three years in grade to voluntarily retire in rank above major. However, the Secretary of Defense has authorized the Secretary of the Army to waive this requirement to not less than two years in individual cases involving extreme hardship or exceptional or unusual circumstances. The applicant did not hold the grade of COL for 3 years (or at least 2 years, with a

Secretarial waiver). Therefore, the Board determined the grade of LTC is the appropriate retirement grade.

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. Army Regulation (AR) 600-8-24 (Officer Transfers and Discharge) prescribes the officer transfers from active duty (AD) to the Reserve Component and discharge functions for all officers on AD for 30 days or more. It states:

a. A commissioned officer in the rank of major and below may voluntarily retire in the highest rank served satisfactorily on AD for six months or more.

b. A commissioned officer must serve on AD three years in grade to voluntarily retire in rank above major. However, the Secretary of Defense has authorized the Secretary of the Army to waive this requirement to not less than two years in individual cases involving extreme hardship or exceptional or unusual circumstances.

2. Title 10. U.S. Code, section 1370 (Regular commissioned officer).

a. Unless entitled to a different retired grade under some other provision of law, a commissioned officer of the Army who retired shall be retired in the highest permanent grade in which such officer is determined to have served on active duty satisfactorily.

b. In order to be eligible for voluntary retirement under any provision of this title in a grade above major, a commissioned officer of the Army must have served on AD in that grade for not less than three years, except that the Secretary of Defense may authorize the Secretary of a military department to reduce such period to a period not less than two years.

c. Retirement in Next Lower Grade. An officer whose length of service in the highest grade he held while on AD does not meet the service in grade requirements specified shall be retired in the next lower grade in which he served on AD satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

3. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The ABCMR will decide cases on the evidence of record. It is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. Paragraph 2-11 states applicants do not have a right to a formal hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//