

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 12 July 2024

DOCKET NUMBER: AR20230012099

APPLICANT REQUESTS: correction of retirement points for Retirement Year Ending (RYE) March 1991 to reflect 42 additional points based on attendance at the Reserve Officers' Training Corps (ROTC) Advance Camp from 6 June to 16 July 1990.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 597 (Army Senior ROTC Student Contract), 25 August 1989
- SF 88 (Report of Medical Examination), 8 June 1990
- Leave and Earnings Statements (LES)
- Two Certificates, 16 July 1990 and 3 August 1990
- Permanent Orders 165-09, 31 August 1990
- DA Form 61 (Application for Appointment), 4 September 1991
- Memorandum, Subject: Appointment as a Reserve Commissioned Officer of the Army Under Title 10, United States Code (USC), Sections 591, 593, 2104, 2106, and 2107, 9 May 1992
- National Guard Bureau (NGB) Form 23A (Army National Guard (ARNG) Current Annual Statement), 9 March 2023

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 pertinent part that he attended ROTC Advanced Camp from 6 June to 16 July 1990. However, he has not received qualifying service credit for his attendance. He is unable to locate the orders or other documentation in support of this period of active duty service reflective of the course start date. He provides that he contracted as an ROTC Cadet in 1989 and attended Advance Camp at Fort Riley, KS. He recalls completing a medical examination upon his arrival and receiving a stipend of \$761.46 upon his completion of the Advance Camp. Following his completion of the course, he attended and completed the Air Assault Course (20 July to 3 August 1990).

He further makes reference to the Advance Camp being 42 days (6 weeks) in duration as provided on the U.S. Army Cadet Command 10 Year History website.

3. A review of the applicant's service records show:

a. On 9 March 1987, the applicant enlisted in the ARNG for 8 years.

b. On 25 August 1989, the applicant contracted in the Central Missouri State University ROTC program. Subsequently, on or about 2 October 1989, he elected to participate in the Simultaneous Membership Program.

c. On 16 July 1990, the applicant completed the ROTC Advance Camp.

d. On 3 May 1992, the MOARNG issued Orders 124-028 discharging the applicant from the ARNG, effective 8 May 1992.

e. On 9 May 1992, the applicant was appointed a Reserve commissioned officer.

f. On 2 April 2013, the applicant was issued a Notification of Eligibility for Retired Pay for Non-Regular Retirement (20-Year letter).

g. On 29 April 2024, the MOARNG issued Orders Number 7961562 announcing the applicant's voluntary transfer into the Retired Reserve, effective 31 March 2024.

4. The applicant provides:

a. SF 88 dated 8 June 1990, reflective of the applicant undergoing an ROTC Advance Camp medical examination at the Fort Riley, KS, Irwin Army Community Hospital on 8 June 1990.

b. LES reflective of the applicant's pay and entitlements received between 1 June and 31 July 1990. The applicant did not attend drill during this period.

c. Certificate dated 3 August 1990, reflective of the applicant's completion of the Air Assault course on 3 August 1990.

d. Permanent Orders Number 165-09 dated 31 August 1990, reflective of the applicant being authorized the permanent wear of the Air Assault Badge.

e. DA Form 61 dated 4 September 1991, reflective of the applicant's request for appointment of a Reserve commission on 9 May 1992.

f. Memorandum, Subject: Appointment as a Reserve Commissioned Officer of the Army Under Title 10, USC, Sections 591, 593, 2104, 2106, and 2107 dated 9 May 1992, reflective of the applicant being appointed a Reserve commission in the U.S. Army for an indefinite period.

g. NGB Form 23A dated 9 March 2023 reflective of the applicant's qualifying service completed between 9 March 1987 – 9 March 2023. For RYE March 1991, covering the period of 9 March 1990 – 8 March 1991, the applicant received 66 retirement points, comprised of 36 Inactive Duty Training (IDT), 15 Membership and 15 Active-Duty Training (ADT) points.

5. On 19 April 2024, the NGB, Chief, Special Actions Branch, provided an advisory opinion recommending denial of the applicant's request noting that in accordance with Title 10, USC, Section 2106 (Advanced Training: Commission on Completion) in computing length of service for any purpose, an officer appointed under this section may not be credited with enlisted service for the period covered by his advanced training, other than any period of enlisted service performed on or after 1 August 1979, as a member of the Selected Reserve. Review of the applicant's available personnel records reflects that he was awarded 15 active duty points for Annual Training (AT). It is reasonable to believe that the applicant performed AT with his ARNG unit that year and was thus awarded retirement points for that creditable service. Regarding his orders to participate in Advance Camp, only duty performed with his USAR unit while a member of the SMP is creditable for retired pay. Anything duty performed with the ROTC is not.

6. On 22 April 2024, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments.

7. On 26 April 2024, the applicant responded to the advisory opinion noting that in accordance with the cited reference (Title 10, USC, Section 2106(c)) the duty that he performed did in fact occur after 1 August 1979, and therefore would qualify for award of the 42 retirement points being requested. He further notes that the advisory opinion does not dispute that the service was performed and completed, nor the length of the duty performed (42 days).

#### BOARD DISCUSSION:

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 Board noted the applicant's contention that he attended Reserve Officers Training Corps Advanced Camp. The Board also reviewed and concurred with the National Guard Bureau's advisory official's finding that the statute does not allow for credit of

enlisted service for the period covered by his advanced training and recommended denial. The Board determined no administrative relief should be granted.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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. 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. Title 10, USC, section 2106 (Advanced Training: Commission on Completion) provides that in computing length of service for any purpose, an officer appointed under this section may not be credited with enlisted service for the period covered by his advanced training, other than any period of enlisted service performed on or after 1 August 1979, as a member of the Selected Reserve.
3. Army Regulation 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records), dated 15 May 1987, prescribes the types of training and activities for which retirement points are authorized and the procedures for recording retirement point credits and training for U.S. Army Reserve (USAR) Soldiers. Paragraph 1-3 (Eligibility) states, only Ready Reserve soldiers (other than Reserve Officers Training Corps (ROTC) and Delayed Entry Control Group Soldiers) and Active Standby Reserve are authorized retirement point credit. As an exception to the above exclusion of ROTC service, potential participants in the ROTC/Simultaneous Membership Program (ROTC/SMP) (those not enrolled in the Advanced ROTC Course) are authorized retirement points credit and to be paid for drills in the grade and years of service attained. Participants in the ROTC/SMP enrolled in the Advanced ROTC Course are authorized retirement points and pay for drills until commissioned. Points and service time while in the advanced course are then removed.

//NOTHING FOLLOWS//