

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 June 2024

DOCKET NUMBER: AR20230012122

APPLICANT REQUESTS: retirement point credit for:

- 7 January 2017
- 12 February 2017
- 5 March 2017

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

- Two DD Forms 149 (Application for Correction of Military Record)
- Three DA Forms 1380 (Record of Individual Performance o Reserve Duty Training)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10 (Armed Forces), United States Code (USC), section 1552 (b) (Correction of Military Records: Claims Incident Thereto). 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 his DA Form 5016 (Retirement Accounting Statement) does not show a good year for the period November 2016 through November 2017.

a. The applicant explains that, in 2017, he was seeking a transfer out of his Troop Program Unit (TPU) because he had an opportunity to fill a position for the next higher grade; (the applicant held the rank/grade of sergeant first class (SFC)/E-7 and the position was for an E-8). The applicant asserts the leadership in his TPU tried to block his transfer, and he feels they sought to retaliate against him by not properly submitting his DA Forms 1380.

b. The applicant did not realize he was missing the points from the DA Forms 1380 until he was preparing his retirement packet; his career counselor pointed out the omission. The applicant goes on to detail the reasons why he believes his unit retaliated against him, and he declares, "I'm am looking to get credit for the time it shows as

missing from that year. This November will make 22 years in service, and I am looking to get credit for all 22."

3. The applicant provides three DA Form 1380, which show the following:

a. 7 January 2017:

(1) Item 9 (The Above Named Soldier Performed Points Only Duties, Training, or Instruction on the Dates and for the Hours Indicated as Authorized By): The applicant cites Army Regulation (AR) 140-1 (Army Reserve – Mission, Organization, and Training), paragraph 3-12 (Rescheduled Training (RST)), and he adds, "Rescheduled Training ILO 6-7 May 2017 Battle Assembly)."

(2) Item 9 additionally shows the applicant performed "JBMDL/RST/WAREX Preparation" on 21 and 22 December 2016 for 8 hours each day.

b. 12 February 2017.

(1) Item 9 cites AR 140-185 (Army Reserve – Training and Retirement Point Credits and Unit Level Strength Accounting Records), Table 2-3 (Award of IDT Retirement Points), Rule Number 2 (attends Battle Assembly (BA) Re-Scheduled Training (RST), in a non-pay status; points granted under the 4-hour/8-hour Rule).

(2) Item 9 further indicates that, on 11 and 12 February 2017, the applicant performed duties, for points only, that pertained to "JBMDL/RST/WAREX Preparation." The applicant completed 8 hours each day.

c. 5 March 2017.

(1) Item 9 cites AR 140-185, Table 2-3, Rule Number 2.

(2) Item 9 states, on 4 and 5 March 2017, the applicant performed duties, for points only, that pertained to "JBMDL/RST/WAREX Preparation." The applicant completed 8 hours each day.

4. A review of the applicant's service record shows on 5 November 2001, the applicant enlisted into the U.S. Army Reserve (USAR). The Army honorably released the applicant from active duty and returned him to the USAR. Through subsequent reenlistments, the applicant continued his USAR service with over 9 years of active duty service.

5. On 8 November 2023, the U.S. Army Reserve Command (USARC) provided an advisory opinion.

a. After reviewing the applicant's documents, USARC determined the applicant should be awarded twelve points, based on AR 140-185; USARC granted full relief.

b. On 15 November 2023, the Army Review Boards Agency provided the applicant a copy of the advisory opinion for review and the opportunity to submit a statement or additional evidence on his own behalf; the applicant did not submit a response.

6. Effective 22 December 2023, orders transferred the applicant to The Retired Reserve. His DA Form 5016, dated 28 February 2024, shows he completed 21 years of qualifying USAR service for non-regular retirement. The form additionally indicates that, for the period 5 November 2016 through 4 November 2017, the applicant accrued a total of 38 retirement points.

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 review based on law, policy, and regulation. The Board reviewed and concurred with the U.S. Army Reserve Command's advising official and determined the evidence supports the applicant receiving credit for 12 retirement points for the performance of duties on 7 January 2017, 12 February 2017, and 5 March 2017.

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 partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by awarding the applicant 12 qualifying points for the performance of duties on 7 January 2017, 12 February 2017, and 5 March 2017.

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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. AR 140-185, currently in effect, sets responsibilities and procedures for establishing and maintaining retirement records that prescribe the types of training and activities for which retirement points are authorized.

a. Paragraph 1-6 (Eligibility). Retirement point credit is authorized for members of the Reserve Component in active Service Ready Reserve; Reserve Component members in an active status (i.e., Standby Reserve (Active List)); and Reserve Officer Training Corps (ROTC)/Simultaneous Membership Program (SMP), Delayed Entry Program Soldiers, Ready Reserve Soldiers in an active status and active Standby Reserve Soldiers.

b. Paragraph 1-7 (Service Requirement for a Satisfactory Year of Service for Non-Regular Retirement). A qualifying year of service for non-regular retired pay is a full year during which a Reserve Component member is credited with a minimum of 50 retirement points. Except as otherwise provided by law, an accumulation of 20 such years is one requirement necessary to qualify for non-regular retired pay.

c. Paragraph 2-2 (Criteria for Earning Retirement Points). Retirement points may be earned by USAR 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 Inactive Duty Training (IDT), annual training (AT), IDT, membership points, and for other activities specified in this regulation.

d. Table 2-3 provides criteria for award of retirement points for IDT performed in accordance with Department of Defense Instruction (DODI) 1215.07 (Service Credit for Non-Regular Retirement) and AR 140-1 (Army Reserve – Mission, Organization, and Training) (unless another reference is cited).

(1) Most types of IDT are covered by one of the following rules on required duration of IDT and calendar day limitations on points. A maximum of two retirement points may be credited for attendance at unit BA or IDT in any 1 calendar day.

(2) Inactive duty services types include:

- The 4-hour rule – Soldiers earn one point for each scheduled 4-hour period of IDT at BA, RST, Equivalent Training (ET), or Additional Training Assemblies (ATA)
- 4/8-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; maximum of two points in 1 calendar day

3. AR 140-1, currently in effect, states in paragraph 3-12 that commanders should use RSTs to increase the flexibility of scheduled training activities; the period of training for the RST will be of same duration as that scheduled for the Unit Training Assembly (UTA) or Multiple Unit Training Assembly (MUTA). Individual Soldiers may request an RST if there is a training activity that is better accomplished at a time, date, and/or location other than the UTA/MUTA.

//NOTHING FOLLOWS//