

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 July 2024

DOCKET NUMBER: AR20230012353

APPLICANT REQUESTS:

- Line of Duty (LOD) status determination for injuries sustained on 7 June 2012
- waiver to attend Basic Officer's Leadership Course (BOLC) for promotion purposes
- retroactive pay for the difference between first lieutenant (1LT)/O-1 pay and first sergeant pay (1SG/E-8) from May 2017 to 1 May 2022
- payment for Reserve Component Troop Program Unit (TPU) service from February 2012 to December 2015
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record), 12 September 2023
- DA Form 1380 (Record of Individual Performance of Reserve Duty Training), March 2012 to December 2015; April 2021 and May 2021; July 2021 and August 2021 (40 pages)
- Email Correspondence, 338th Medical Brigade (Bde) and 99th Regional Support Command (RSC) (96 pages)
- Transcript of Interview with (County) Investigator Police Officer in Civil Case, dated 22 June 2012
- State of Virginia, Police Crash Report, dated 7 June 2012
- Civilian Medical Records

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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:

- a. He joined the Army in 1983 at age 17 intending to serve as long as he could. He progressed in the enlisted ranks and was commissioned in 2010.
- b. He deployed to Operation Desert Shield and Operation Desert Storm and to Operation Iraqi Freedom in 2007 to 2008. He was awarded bronze service stars for both of these deployments and his unit in Iraq was authorized a unit award.
- c. He decided to commission and spend the remainder of his career in the officer ranks in an effort to make CPT by age 60. He never missed a battle assembly. In 38 years he has done what was asked of him in the Army and U.S. Army Reserve (USAR).
- d. He was commissioned a signal officer in 2010 and served in a signal unit. His recruiter and U.S. Army Human Resources Command (HRC) told him he could submit a waiver for BOLC with his experience. Since his path to CPT was paved, he resigned his signal officer commission and put in a packet to commission as a 70D (Health Services System Management).
- e. The commission to 70D took longer than expected. He was told he would be transferred. He bought a motorcycle to commute to drill. He was approved to take the required Basic and Advanced Motorcycle Safety Training Course at Fort Lee. His unit could not pay him for the DA Forms 1380 he submitted because he was no longer on their roster. He had not received any transfer orders or information and none were posted at HRC.
- f. He received his commission paperwork and assignment information in late March 2012 (338th Medical Bde) but the number he was given had no answer. The 99th Reserve Support Command (RSC) gave him a number and 2 weeks later he received a call back from an officer who said the unit was moving locations and the unit phone numbers had changed. He was given a number to contact Ms. M____, the unit administrator, and on his third attempt he reached her 2 weeks later. She informed him she would send a welcome packet but there was no June battle assembly. She notified him he could make up any battle assemblies and told him to send the DA Forms 1380 he completed for motorcycle training.
- g. On 7 June 2012, he was involved in a motorcycle accident after completing 1 day of a multiday makeup rescheduled training (RST). He was in a coma for 15 days and had numerous other life-threatening and permanent issues.
- h. In August 2012, his wife told him Colonel (COL) D____, Commander, 338th Bde, visited him in the ICU in Richmond. He does not recall the visit. His wife said the commander told her if he needed anything to let her know. He never heard from

COL D___ or anyone else from the 338th Medical Bde about his well-being or for anything related to being in the unit.

i. While he was in rehabilitation, he called Ms. M___ and was given CPT T___, Commander, 338th contact number and gave his history. He asked if there was anything he could do while he was waiting for a LOD determination and retirement. CPT T___ said he could do the mandatory yearly online classes and any classes that related to his area of concentration and he said to submit the DA Forms 1380 to Ms. M___ for processing and payment. He had two conversations with Ms. M___ in 2012 and both times he resent the DA Forms 1380 but he was only paid for one in 2012. He also sent in his BOLC waiver packet as he was eligible for 1LT in late 2012.

j. In mid-2013, he received a call from the training noncommissioned officer (NCO) inquiring about BOLC. He told the training NCO he resent the paperwork to CPT T___ and Ms. M___ so he resent it to him as well. He never heard back from anyone at the 338th Med Bde in 2013.

k. In 2014-2015, he sent Ms. M___ another email about payment of his past DA Forms 1380 and she told him there was a new commander at 338th and he needed to speak with her. She said he could get the pay waivers taken care of and she asked him to do Soldier Readiness Processing (SRP) for 2014, which he completed. She asked him to send the DA Forms 1380 and she would have a warrant officer look at the work he completed and see if they would pay him for the periods. He sent everything to Ms. M___ and he never heard from anyone on the status of the payments. He received a package to be transferred into the Inactive Ready Reserve. He could not sign it because it required a statement about being deployable, which he was not.

l. He contacted First Sergeant S___ and sent email traffic he previously sent to Ms. M___, including requests to receive pay and he continued doing SRP and AOC related training.

m. In 2016 he never received anything by mail except for a few random email blasts sent to everyone, two phone calls, and two return calls. He received a unit letter notifying him a change of commander at 338th Med Bde, CPT JN___. He spoke to the new commander who requested he send the DA Forms 1380 and waiver package and he would try to find him a local unit to go to. The 7202nd Medical Support Unit (MSU) agreed to allow him to complete RST with them. He helped with their administrative tasks and he took online training. He was paid for 2016 battle assemblies.

n. In 2016 the 99th RSC reached out to him about his LOD determination which had not been completed. He reached out to the unit but did not get a response. The 99th RSC was able to get the 338th Med Bde to process 2012 DA Forms 1380, but this excluded DA Forms 1380 for January to March 2012. He continued to perform RST with

the 7202nd MSU. This unit moved to New York so he continued RST in the same building with the permission of CPT C ____, 343rd GAC. CPT S replaced CPT JMN ____ at 338th Med Bde.

o. In 2017, he continued RST with 343rd GAC waiting for resolution of his LOD determination, unpaid 1380s, and possible promotion from BOLC paperwork. His DA Forms 1380 until may were paid properly. In May 2017, his pay was reduced from E-8 to 2Lt and his pay was short about \$250.00 per battle assembly. He reached out the 338th Med Bde with no response. His pay remained reduced until he retired in 2022.

p. In 2018 to 2019, he contacted 99th RSC finance and Staff Sergeant (SSG) A ____ asked him to send his DA Forms 1380 to fix the finance issues and she forwarded them to HRC. She said she would have someone at the unit sign the DA Forms 1380. He continued to drill. His issues were not resolved.

q. In 2020 to 2022 the 338th Med Bde and other units went into virtual battle assembly because of the COVID virus. His new unit commanders could not resolve his issues. He received a letter from the 338th Med Bde saying he would be discharged from the service for not completing BOLC in 10 years. He emailed the new commander telling how he was waiting for his waiver since 2013. His response from the new commander was to contact Defense Finance and Accounting Service (DFAS). He opened a ticket with DFAS but they sent him information saying his unit had to initiate the process. The unit referred him back to DFAS. He was retired in less than 30 days after signing his documents.

3. The applicant provides:

a. Transcripts, certifications, and professional memberships consisting of nine pages and reflecting a BS of Information Systems, an MS in Project Management, A+ certification, Network+ certification, professional memberships, a Project Management Professional certification, and a certificate of completion in an online course.

b. DA Forms 1380 consisting of 40 pages and reflecting performance of RST at 338th Med Bde for a total of 8 retirement points in 2012; 70 retirement points in 2013; 44 retirement points in 2014; 50 retirement points in 2015; and 16 retirement points in 2021; for the periods:

- 13—14 March 2012, 16 hours, and 4 retirement points
- 14—15 May 2012, 16 hours, and 4 retirement points
- 5—6 January 2013, 16 hours, and 4 retirement points
- 2—3 February 2013, 16 hours, and 4 retirement points
- 13—14 March 2013, 16 hours, and 4 retirement points

- 13—14 April 2013, 16 hours, and 4 retirement points
- 13—15 May 2013, 24 hours, and 6 retirement points
- 13—14 June 2013, 16 hours, and 4 retirement points
- 13—15 July 2013, 24 hours, and 6 retirement points
- 1 July 2013 and 10 July 2013, 16 hours, and 4 retirement points
- 13—14 September 2013, 16 hours, and 4 retirement points
- 13—15 October 2013, 24 hours, and 6 retirement points
- 13—14 November 2013, 16 hours, and 4 retirement points
- 13—14 December 2013, 16 hours, and 4 retirement points
- 13—14 January 2014, 16 hours, and 4 retirement points
- 1—2 March 2014, 16 hours, and 4 retirement points (two copies)
- 5—6 April 2014, 16 hours, and 4 retirement points
- 3—4 May 2014, 16 hours, and 4 retirement points
- 7—8 June 2014, 16 hours, and 4 retirement points
- 5—6 July 2014, 16 hours, and 4 retirement points
- 5—6 August 2014, 16 hours, and 4 retirement points
- 6—7 September 2014, 16 hours, and 4 retirement points
- 4—5 October 2014, 16 hours, and 4 retirement points
- 8—9 November 2014, 16 hours, and 4 retirement points
- 6—7 December 2014, 16 hours, and 4 retirement points
- 10—11 January 2015, 16 hours, and 4 retirement points
- 14—15 February 2015, 16 hours, and 4 retirement points
- 14—15 March 2015, 16 hours, and 4 retirement points
- 11—12 April 2015, 16 hours, and 4 retirement points
- 9—10 May 2015, 16 hours, and 4 retirement points
- 13—14 June 2015, 16 hours, and 4 retirement points
- 11—12 July 2015, 16 hours, and 4 retirement points
- 8—9 August 2015, 16 hours, and 4 retirement points
- 12—13 September 2015, 16 hours, and 4 retirement points
- 10—11 October 2015, 16 hours, and 4 retirement points
- 5—8 November 2015, 24 hours, and 6 retirement points
- 12—13 December 2015, 16 hours, and 4 retirement points
- 29—30 April 2021 and 1—2 May 2021, 32 hours and 8 retirement points
- 28—30 July 2021 and 2—3 August 2021, 32 hours and 8 retirement points

c. Email traffic consisting of 96 pages, between he and his units showing communications and his efforts as well as his commander's efforts to resolve his issues regarding DA Forms 1380, promotion, BOLC and Captain Career Course (CCC) waivers, back pay differential, and LOD determination:

(1) Email dated 14 March 2012, from Sergeant First Class (SFC) JRR____, TRADOC, notifying the board results had been completed and the authorization to once again commission him into the USAR in MOS 70D. Forms were attached to this email for this process.

(2) Email dated 20 May 2016, from CPT JMN____338th Med Bde, notifying him his commander signed all the DA Forms 1380 and submitted them by transmittal letter to finance (98th RSC) for processing. He would keep the applicant informed of the reply.

(3) Email dated 28 July 2016, from the applicant to CPT JMN____338th Med Bde, notifying his commander of computer and common access card difficulties and noting additional DA Forms 1380 were attached for processing.

(4) Email dated 18 November 2016, from the applicant to CPT JMN____338th Med Bde, notifying his commander he completed LHI appointments and had attached the paperwork and DA Form 1380 for October 2016. This email chain was preceded by other email in which the applicant did not attach the DA Forms 1380 or was having difficulty competing submission of his DA Forms 1380.

(5) Email dated 23 March 2018, from the applicant to CWT____, 99th RSC, requesting assistance with DA Forms 1380 and indicating he had not heard from his unit; requesting help with resolving his reduced pay between E-8 and 2LT.

(6) Email dated 27 March 2018, from CPT BGS____, 338th Med Bde HHC, requesting DA Forms 1380 and notifying him they are getting a new unit administrator and indicating he will get in touch with someone who can help.

(7) Email dated 5 April 2018, from Applicant to CPT BGS____, 338th Med Bde HHC, briefing him on the background of his medical situation, his training, and requesting assistance with his LOD, DA Forms 1380, pay, and promotion.

(8) Email dated 19 April 2018, from Applicant to his CPT BGS____, 338th Med Bde HHC, following up on his requests for LOD, medical evaluation board (MEB), and DA Forms 1380.

(9) Email dated 23 April 2018, from his CPT BGS____, 338th Med Bde, noting his commander was not full-time and they had limited staff at the unit to fix his issues. His commander noted he would speak with the incoming brigade commander to see what could be done to get everything fixed. He advised the applicant to call him back the next day.

(10) Email dated 20 September 2018, from RDJ____, Medical Command, DCS, WCT, to the applicant, inquiring on his LOD status and following up on any action taken by his commander; requesting he notify them of whatever else he needed.

(11) Email dated 25 December 2018, from the applicant to SSG AMA____, 99th RSC, noting he was attaching email threads from a previous commander at 338th Med Bde, JMN____, 338th Med Bde HHC, showing his commander had signed the DA Forms 1380 and submitted them by a transmittal letter to finance for processing on 20 May 2016.

(12) Email dated 4 January 2019, from the applicant to SSG AMA____, 99th RSC, noting he had been in contact with CPT JMN____, 338th Med Bde HHC on 28 July 2016 noting his Common Access Card had been damaged and his was attempting to fix it; attempting to resolve DA Forms 1380 for retirement points credit and RST payment, and attempting to complete a profile packet to determine if he needed to be medically boarded. He asked if his DA Form 4187 had been submitted to AHRC in 2013 so he could get promoted to captain.

(13) Email dated 2 February 2019, from RDJ____, U.S. Army Medical Command, DCS WCT, to the applicant, following up on his LOD and strongly recommending he check with the point of contact at his command.

(14) Email dated 2 February 2019, from the applicant to RDJ____, U.S. Army Medical Command, DCS WCT, responding that he did not hear from his commander.

(15) Email dated 21 February 2019, from AMA____, 99th RSC to 99th RSC Officer Management, requesting follow up on pay issues, constructive credit, promotion, waiver for CCC Course.

(16) Email dated 28 September 2021, from the applicant to SSG AMA____, 99th RSC, attempting to resolve back pay, promotion, and BOLC waiver paperwork (resubmission) in June 2021 and with his command. HRC had informed him his paperwork was obsolete and to resubmit it

(17) Email dated 27 February 2022, from the applicant to HCS____, U.S. Army Medical Command, forwarding email traffic from his commander at 338th Med pertaining to his issues.

d. Additional evidence, in response to HRC advisory opinions, consisting of a transcription of an interview of Police Officer AJH____, 22 June 2012 for proceedings in the case of (Applicant v. Driver of Vehicle 1), with salient points:

- applicant was involved in a three vehicle crash while he was stopped at a two-lane undivided highway
- a vehicle 1 struck applicant from behind and pushed he and his motorcycle into another vehicle stopped in front of him and ejected him forward, threw him to the shoulder
- he was treated at the scene and then transported to ICU
- his motorcycle was a total loss
- the driver of vehicle 1 which struck the applicant, was found at fault and charged with reckless driving as the result of looking down at their cellphone to change music at the time of the accident

e. Additional evidence, in response to HRC advisory opinions, consisting of a Commonwealth of Virginia, Department of Motor Vehicles Police Crash Report, dated 7 June 2012, showing the details of a three vehicle accident in which all vehicles were damaged and the applicant was injured, rendered unconscious, and transported to a local hospital.

f. Additional evidence, in response to HRC advisory opinions, containing 23 pages of medical documents detailing treatment notes for traumatic brain injury (TBI), diffuse axonal injury, post-operative acute respiratory failure, herniated nucleus pulposus, left-clavicular nondisplaced fracture, from between 7 June 2012 to 31 October 2012, as the result of a tremendous mechanism motorcycle accident.

g. Additional evidence, consisting of duplicates of email previously submitted and consisting of 35 pages of communications between the applicant and the 338th Med Bde and 99th RSC, regarding his issues.

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

a. On 15 April 1983, he enlisted in the USAR.

b. On 1 March 2004, following a series of reenlistments and promotions, he was promoted to MSG/E-8.

c. On 21 June 2006, HRC issued him a notification of eligibility for retired pay at age 60 (20-Year Letter) as 1SG/E-8.

d. On 15 April 2010, he applied for an appointment as a Reserve commissioned officer in the Signal Corps (MOS 91C).

e. On 17 August 2010, he was appointed a Reserve commissioned officer in the Signal Corps and he executed an oath of office.

f. On 15 September 2010, HRC issued Orders C-09-013222, reassigning him to 392 Signal Battalion, Virginia as a 2LT/O-1.

g. On 30 January 2012, he applied for an appointment as a Reserve commissioned officer in the Medical Service Corps (MOS 70D).

h. On 29 March 2012, he was appointed a Reserve commissioned officer in the Medical Service Corps and he executed an oath of office.

i. On 4 April 2012, HRC issued Orders C-04-205020, reassigning him to 338th Medical Brigade, Pennsylvania as a 2LT/O-1.

j. A DA Form 5016 (Chronological Statement of Retirement Points), dated 1 March 2022, shows he completed 30 qualifying years for retirement (50 points or more), with the exception of retirement years ending:

- 14 April 1984, 15 points
- 14 April 1991, 31 points
- 14 April 2013, 45 points
- 14 April 2014, 15 points
- 14 April 2015, 19 points
- 14 April 2016, 15 points
- 14 April 2018, 46 points

k. On 10 March 2022, he applied for reassignment in the Retired Reserve, effective 1 May 2022.

l. On 18 April 2022, Headquarters, 99th Readiness Division issued Orders 22-108-00041, reassigning him in the Retired Reserve for completion of 20 or more years of qualifying service retirement pay at age 60.

5. On 23 April 2024, the Chief, Casualty and Mortuary Affairs Operations Division, AHRC, provided ARBA an advisory opinion in response to his requests for LOD determination regarding his injuries from a motorcycle accident, payments and retirements point for DA Forms 1380 from February 2012 to December 2015, repayment of all pay shortages from May 2017 to 1 May 2022, waivers for BOLC and CCC, and retroactive promotion and pay as a captain. The memorandum reads, in part:

a. ARBA requests an advisory opinion from HRC regarding (Applicant's) Line of Duty regarding an injury from 7 June 2012, payments and retirement points for 1380's from February 2012 to December 2015, repayment of all pay shortages from May 2017 to 1 May 2022 and accept waivers for Basic Officer Leader Course and Captains Career Course and back date promotion, pay and retirement as a Captain.

b. The advisory opinion ARBA is requesting is outside the scope of the Casualty and Mortuary Affairs Operations Division footprint with the exception of the Line of Duty. AHRC cannot offer an advisory opinion on the Line of Duty because there is not a preponderance of evidence to offer an opinion on as required by Army Regulation 600-8-4, Line of Duty Policy, Procedures, and Investigations. Without an accident report and other information other than the Soldier's statement, there is nothing that HRC Casualty and Mortuary Affairs Operations Division has to offer on this request that would be within policy and regulation guidelines.

6. On 15 May 2024, the Chief, Personnel Services Division, HRC, provided ARBA an advisory opinion in response to his requests for promotion to captain. The memorandum reads, in part, Based on a review of our records and the information provided, we found that (Applicant) was not qualified for promotion to 1LT due to not completing BOLC. Our office would only be able to process a request for a special selection board for promotion to CPT as a directive from the ABCMR only if the officer received a waiver for BOLC and promoted to 1LT and his date of rank would have placed him in the zone for consideration.

7. On 20 May 2024, the Chief, Personnel Services Division, HRC, provided ARBA an advisory opinion in response to his requests for retirement points for duty performed from March 2012 to December 2015. The memorandum reads, in part:

a. HRC reviewed the application. According to Army Regulation 140-185, paragraph 3-3, Training and Retirement Point Credits and Unit Level Strength Accounting Records, non-paid Records of Individual Performance of Reserve Duty Training (DA Form 1380) must be submitted to HRC for the award of retirement points by the end of each duty month. There is no record of HRC receiving the enclosed DA Forms 1380. The forms also reflect multiple errors and need to be signed.

b. The DA Forms 1380 (were) not prepared or submitted as per AR 140-185. This office cannot award retirement points without direction from the Army Review Boards Agency.

8. On 28 May 2024, the applicant responded to the HRC advisories by email. He provided additional evidence with his response which includes an interview statement of the accident investigator at the scene of the motorcycle accident, a copy of the accident report, medical documents from treatment he received in the days and weeks following the accident, copies of email chain between he and his command, and he reiterated the key points of his original application. His additional evidence is listed within the evidence paragraph above. His rebuttal reads, in effect:

a. He was visited in the ICU by the brigade commander in 2012 after his brother called his old unit and he does not remember anything. This was the only time anyone

at the 338th Medical Brigade contacted him in any way and for any reason. He reached out to the unit and even after that he received no correct information other than they were looking into it.

b. In 10 years, seven commanders, a sergeant major, a first sergeant and 99th RSC Finance were sent the same requests and DA Forms 1380. This was him making contact with them. No information was provided other than AHRC stating that in order to get a BOLC waiver he would need to resubmit the original paperwork on new forms as the forms for 2013 were outdated.

c. He has TBI and he believes at some point the requests would be processed. He believes in the concept of taking care of Soldiers, in particular, Soldiers known to have suffered severe injuries. A few of the commanders told him they would look into these issues but there was no follow up or response.

d. In response to the HRC advisory comments involving the LOD:

- he was paid for RST he completed in April and May 2012, just before the motorcycle accident that occurred on 7 June 2012
- when he returned home from rehab and into home health care, his uniforms and boots were cut up
- the hospital records show he was a military Reserve computer analyst
- his brother assumed he would be absent without leave if someone did not report the accident so he started calling contacts in his phone as his wife was inconsolable and the brigade commander visited his wife in the ICU
- in 2018 and 2019 the recover care division (99th RSC) inquired about his LOD (see Appendix A emails) and he forwarded email to HHC commander at the time but no LOD was produced
- with no LOD his private insurance paid for his care and he could not include them on a Veterans Administration claim for benefits in 2012
- the accident cost him his military career and income

e. In response to the HRC advisory opinion comments involving DA Forms 1380 and underpayment:

- he submitted the same DA Forms 1380 multiple times to seven different HHC commanders and the 99th RSC Finance staff
- he spoke to the 338th Med Bde unit administrator several times through 2014 and sent the DA forms 1380 each time
- he was not told there was anything wrong with the DA Forms 1380
- in 2016 some DA Forms 1380 from 2012 were paid
- of the 112 DA Forms 1380 submitted from 2012 to 2022, only 42 were not paid and all were submitted with the same errors

- from May 2017 to May 2022 his paygrade was changed from E-8 to O-1
- the 99th RSC changed it to OE-1 which was still considerably less than E-8 with his years of service
- he would not have commissioned two times if a reduction in pay was involved

f. In response to the HRC advisory opinion comments involving his BOLC waiver and promotion:

- he was told by the 70D recruiters with his experience he could waive BOLC
- when the waiver did not happen, he was told to contact AHRC and they sent him paperwork to apply through his unit
- he applied in 2013 and was told by his unit they would look at it
- 99th RSC contacted AHRC and AHRC subsequently told him the paperwork was too old and he could put in a waiver for CCC
- he never received an officer evaluation report
- he never received a notice to attend BOLC

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 applicant served in the USAR as an enlisted Soldier from 15 April 1983 to on or about 16 August 2010, during which he was issued a notification of eligibility for retired pay at age 60 (20-Year Letter). He was appointed as a signal corps commissioned officer in the rank of 2LT on 17 August 2010. He then switched to medical corps on 29 March 2012. He was ultimately transferred to the Retired Reserve on 18 April 2022.

a. LOD determination: Deny. The applicant contends that he was involved in a motorcycle accident but does not provide sufficient documentary evidence in relation to this incident. An LOD determination cannot be made because as required by Army Regulation 600-8-4, Line of Duty Policy, Procedures, and Investigations, without an accident report and other information other than the Soldier's statement. While the Board is not questioning the applicant's sincerity, the Board makes a correction based on the preponderance of the evidence. The applicant does not provide sufficient documentary evidence to make a line of duty determination.

b. Promotion and BOLC waiver: Deny. The Board noted that the applicant was not qualified for promotion to 1LT due to not completing BOLC. There is a time limit after initial commissioning within which a 2LT must begin BOLC, and failure to do so within that period constitutes a breach, with potential ramifications. The Board found no evidence he requested a BOLC waiver or provided justification for such waiver. The Board recognizes that everyone is different (hardships, medical, etc.). However, the

Board also noted that at the end of the day, a commissioned officer signed up with the knowledge that after completion of an officer producing program that they had to complete a follow on school in an allotted time. Additionally, since he was not qualified for promotion to 1LT, he would not be qualified for promotion to CPT. Nevertheless, the Board may direct a special selection board if an applicant can prove a material error. The Board found no such material error.

c. Retroactive pay for the difference between first lieutenant (1LT)/O-1 pay and first sergeant pay (1SG/E-8) from May 2017 to 1 May 2022: Deny. The Board noted that the applicant was not promoted to 1LT. The applicant was separated from his enlisted status and was appointed as a signal corps commissioned officer in the rank of 2LT on 17 August 2010. He then switched to medical corps on 29 March 2012. Any pay discrepancy should be addressed to his servicing Finance Office or the Defense Finance and Accounting Service, with appropriate and supporting documentary evidence.

d. Payment for Reserve Component Troop Program Unit (TPU) service from February 2012 to December 2015. Deny. The Board is not a pay master. The Board corrects a military record, which could result in a payment to the Soldier or a debt against the Soldier. TPU drill pay is inputted in the Regional Level Application System (RLAS) following completion of IDT and the commander's certification of IDT Attendance Rosters during Battle Assemblies. Since payments of Reserve drills are submitted by the Soldier/Unit Administrator via this Reserve system, the applicant is advised to address such payment with his Reserve unit or the Readiness Division.

e. Retirement Points: Deny. By regulation, AR 140-185, paragraph 3-3, Training and Retirement Point Credits and Unit Level Strength Accounting Records, non-paid Records of Individual Performance of Reserve Duty Training (DA Form 1380) must be submitted to HRC for the award of retirement points by the end of each duty month. Again, while the Board does not question his sincerity, the Board agreed with the advisory official's determination that there is no record of HRC receiving the applicant's DA Forms 1380. Additionally, the submitted forms contain multiple errors and some are not signed, making it impossible to verify the authenticity of such forms.

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. Title 10, U.S. Code, 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 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 may, in its discretion,

hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

3. Army Regulation 135-155 (Army National Guard and U.S. Army Reserve -- Promotion of Commissioned Officers and Warrant Officers Other Than General Officers), in effect at the time (13 July 2004), prescribed policy and procedures used for selecting and promoting commissioned officers (other than commissioned warrant officers) of the Army National Guard of the United States and of commissioned and warrant officers of the U.S. Army Reserve.

a. Paragraph 2-1. Consideration without board action. An officer in the grade second lieutenant (2LT) or a USAR warrant officer in the grade of WO1 will be considered for promotion without review by a selection board. The officer's records will be screened to determine eligibility for promotion to the next higher grade far enough in advance to permit promotion on the date promotion service is completed (table 2-1 or table 2-3). The records of ARNG unit officers will be screened and promotions accomplished by the CNGB. The records of USAR unit officers will be screened and promotions accomplished by CDR, HRC St. Louis, ATTN: AHRC-PSP. For USAR nonunit and AGR officers, records will be screened and promotions accomplished by CDR, HRC, Office of Promotions, (RC), ATTN: AHRC-MSL.

b. Table 2-1. Time in grade requirements commissioned officers, other than commissioned warrant officers.

- O-1/2LT to O-1/1LT, 2 years in lower grade, 42 months maximum in lower grade
- O-2/1LT to O-3/CPT, 2 years in lower grade, 5 years maximum in lower grade

c. Paragraph 2-2. Service Computation. Service requirements listed in tables 2-1 and 2-3 will be computed according to the following—Commissioned officers. Promotion to captain and above requires a minimum number of years TIG. If an officer received service credit for prior commissioned service and/or constructive service credit on appointment, the officer's date of rank was determined under AR 135-100, and therefore controls the computation of the officer's TIG.

d. Paragraph 2-15. Exceptions. CDR, HRC, Chief, Office of Promotions (RC), (AHRC-MSL), is approval authority for all requests for exception to nonstatutory promotion requirements. Forward requests for exception to nonstatutory promotion requirements to CDR, HRC, Chief, Office of Promotions (RC), ATTN: AHRC-MSL, 9700 Page Avenue, St. Louis, MO 63132-5200. Requests must contain complete justification, including recommendations of intermediate commanders when applicable.

4. Army Regulation 600-8-4 (Line of Duty Policy, Procedures, and Investigations), prescribes policies, procedures, and mandated tasks governing line of duty determinations of Soldiers who die or sustain certain injuries, illnesses, or diseases. Chapter 5 (Line of Duty Determination Procedures for Soldiers of the Army National Guard and U.S. Army Reserve) states a line of duty investigation must be completed promptly, as the determination will impact the Soldier's eligibility for Federal benefits, such as access to medical care, compensation, and disability entitlements. The line of duty will not be entered into the system of record until all required documentation is received, except in emergent care. A Soldier will not be separated or retired, without the Soldier's consent, while a line of duty determination, Medical Evaluation Board, or Physical Evaluation Board is pending unless otherwise permitted by law. A formal line of duty is required for disease incurred while performing annual training, inactive duty training, or ordered to active duty for less than 30 days.

a. The unit commander will ensure DA Form 2173 (Statement of Medical Examination and Duty Status) is completed promptly and forwarded through channels to the appointing authority. Medical and dental care for soldiers on duty other than AD for a period of more than 30 days. A soldier of the National Guard or U.S. Army Reserve is entitled to hospital benefits, pensions, and other compensation, similar to that for soldiers of the Active Army for injury, illness, or disease incurred in the line of duty, under the following conditions prescribed by law (10 USC 1074a):

- while performing AD for a period of 30 days or less
- while performing inactive duty training

b. While traveling directly to or from the place at which that soldier is to perform or has performed—

- active duty for a period of 30 days or less
- inactive duty training
- service on funeral honors duty under 10 USC 12503 or 32 USC 115

c. While remaining overnight immediately before the commencement of inactive duty training, or while remaining overnight, between successive periods of inactive duty training, at or in the vicinity of the site of the inactive duty training.

d. Informal line of duty investigations: documentation for an informal line of duty investigation typically consists of DA Form 2173 completed by the medical treatment facility and the unit commander and approved by the appointing authority, State AG, or higher authority. The final determination of an informal line of duty investigation can result in a determination of "in the line of duty" only, except as provided in paragraph 4-8(c)(1).

5. Army Regulation 135-180 (Retirement for Non-Regular Service), implements statutory authorities governing the granting of retired pay for non-regular service to Soldiers in the Army National Guard and Army National Guard of the United States or the U.S. Army Reserve. HRC will update the DA Form 5016 for USAR Soldiers annually at the end of their annual year and place it into their on-line record. Soldiers will review their retirement point statement annually and provide supporting documents to correct any deficiencies through their chain of command to HRC in accordance with Army Regulation 140-185. Discharged Soldiers with no military service obligation will receive an updated DA Form 5016 if a request is received with supporting documents and an account is already established in the Retirement Point Accounting System.

a. 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 RC 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.

b. Paragraph 1-8b. Establishment of anniversary year. The criteria for establishing the service requirement for a satisfactory year of service for non-regular retirement per DODI 1215.07 and changing the anniversary year ending date are as follows: the full-year periods used for the crediting of qualifying years for non-regular retirement must be based on the anniversary years. Anniversary year periods are calculated from an anniversary date. The anniversary date is the date the Servicemember entered into active service or active status in a RC. The month and day for each successive anniversary year will not be adjusted unless the Servicemember has a break in service. A break in service occurs only when a member transfers to an inactive status list, the inactive National Guard, a temporary disability retired list, the Retired Reserve, or is discharged for longer than 24 hours. There will not be a break in service if the Servicemember transfers directly to another active component or RC. When a Servicemember with a break in service returns to an active Reserve status or to active service, the revised anniversary year start date will be the date of return or reentry. When the anniversary date shown on any authorized DA Form 5016 is incorrect the Soldier's unit of assignment should submit a request for action to HRC via encrypted email for processing.

c. Paragraph 2-1. Criteria for crediting retirement points. The limitations on the number of points that may be credited to a Soldier during an anniversary year are:

- 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 maximum of two retirement points may be awarded in 1 calendar day for any activity or combination of activities
- Inactive duty training (IDT) will be either 4 hours in length for one retirement point or 8 hours in length for two retirement points, with the exception of the 2 hour IDT funeral honors duty
- Membership-Soldiers are awarded 15 membership points for each year in an active status

6. Army Regulation 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records), in effect at the time (15 March 2016), contains Army policy for U.S. Army Reserve training and retirement point credit. It also prescribes guidance for USAR unit level strength accounting.

a. Paragraph 3-3. DA Form 1380. The purpose of this form is to record inactive duty training by: TPU Soldiers performing IDT assemblies when pay is authorized and the Soldier is not present to sign the IDT attendance roster.

b. TPU Soldiers attached to another USAR unit for 89 or fewer days. In such cases the unit of attachment will prepare DA Form 1380 and forward to unit of assignment for recording attendance.

c. Nonunit Soldiers under the jurisdiction of HRC who are attached for retirement points only to USAR TPUs, ARNG units, or to another Service or component for training per AR 140-10. Only attached Soldiers are authorized to perform IDT with the exception of one annual physical health assessment each for medical and dental readiness when authorized by the command prior to the event

d. Nonunit Soldiers performing other inactive duty training for retirement point credit as outlined in table 2-3.

e. DA Form 1380 will be prepared for a unit Soldier who performs ET or additional training with their unit subsequent to the scheduled BA. TPU units will retain one copy of the DA Form 1380 to post the appropriate entry into ADARS for the month's report and then place in the appropriate Army records information management system file. Nonpaid DA Forms 1380 will not be entered into ADARS and will be forwarded to HRC for award of retirement points no later than the end of each duty month. DA Form 1380 will be scanned into the Soldier's iPERMS by the unit of assignment per Army Regulation 600-8-104.

f. Codes for duty qualification codes and definitions are described in table 3-2.

//NOTHING FOLLOWS//