

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 July 2024

DOCKET NUMBER: AR20230013090

APPLICANT REQUESTS: the issuance of a Notification of Eligibility for Retired Pay at Age 60 (20-Year Letter).

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

- DD Form 149 (Application for Correction of Military Record)
- E-mail Communication with U.S. Army Human Resources Command (HRC), subject: [Applicant] Missing 20 Year Letter Notice of Eligibility, 19 May 2022
- National Personnel Records Center (NPRC) Letter, 9 May 2023
- [REDACTED] Department of Military and Veterans Affairs Military Service Inquiry
- National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service)
- National Archives (NA) Form 13038 (Certification of Military Service)
- DD Form 214 (Report of Separation from Active Duty), for the period ending 2 June 1978 (U.S. Navy)
- Three DD Forms 214 (Certificate of Release or Discharge from Active Duty), for the periods ending 5 April 1984, 5 April 1988, and 22 January 1993 (U.S. Navy)

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 after completing 16 years, 7 months, and 24 days of active service in the U.S. Navy (USN), he enlisted in [REDACTED] Army National Guard ([REDACTED] ARNG) for 3 years. He is trying now to apply for retired pay but has been unable to find his 20-Year Letter; he is asking the Board to issue him a Notification of Eligibility for Retired Pay at Age 60 so that he can receive retired pay. In support of his request, he supplies documents from his service record, along with correspondence reflecting his efforts to receive retired pay.

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

a. On 28 May 1976, the applicant enlisted in the USN; he served continuously until 22 January 1993, when the USN released him from active duty and transferred him to the Naval Reserve, based on a voluntary discharge under the early release program with special separation benefit. His DD Form 214 shows he completed 1 year, 9 months, and 26 days of active service with 14 years, 9 months, and 28 days of prior active service; (total: 16 years, 7 months, and 24 days).

b. On 28 May 1993, the applicant enlisted in the ■■■ ARNG. On 27 May 1996, the ■■■ ARNG honorably discharged the applicant due to the expiration of his service obligation. Item 10 (Record of Service) of his NGB Form 22 states he completed 3 years of net ■■■ ARNG service, with 4 months and 5 days of prior Reserve Component service and 16 years, 7 months, and 25 days of prior active Federal service. It additionally shows his "Total Service for Pay" as 20 years.

c. On 22 July 1996, the ■■■ ARNG issued the applicant's NGB Form 23A (Army National Guard Current Annual Statement), which listed his USN and ■■■ ARNG service and reported a grand total of 19 years, 7 months, and 25 days of creditable service for retired pay.

d. On 18 March 2024, NGB provided an advisory opinion and recommended disapproval of the applicant's request.

(1) In review of the records and coordination with the ■■■ ARNG, the Soldier did not complete 20 years of creditable service in the USN and the ■■■ ARNG. ■■■ ARNG supplied his NGB 23A showing the Soldier served 19 years, 7 months, and 25 days of creditable service. Soldier is also not eligible for non-regular retirement per (Title) 10 USC, (section) 12731 (Retired Pay for Non-Regular Service – Age and Service Requirements), as he did not complete the last eight years of qualifying service in the National Guard.

(2) The NGB coordinated its advisory with ■■■ ARNG and the NGB Retirement Services office.

e. On 20 March 2024, the Army Review Boards Agency forwarded 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 respond.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the findings that the applicant did not complete 20 years of military service and recommendation outlined in the NGB advisory opinion, and the lack of any rebuttal of those findings and recommendation submitted by the applicant, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's record.

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.

1/7/2025

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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:

a. 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.

b. Section 12731 states a person is entitled to retired pay, upon application, if the person has:

(1) Attained the eligibility age.

(2) Performed at least 20 years of service.

(3) When the person has completed at least 20 years before 5 October 1994, he/she must have performed the last eight years of qualifying service while a member of the National Guard, but not while a member of a regular component.

2. National Guard Regulation (NGR) 680-2 (Automated Retirement Points Accounting Management), currently in effect, states in chapter 3 (Retirements for Retired Pay):

a. Paragraph 3-2 (Basic Qualifying Service Requirement). To qualify for non-regular retired pay at or after the age specified in paragraph 3-1, a Soldier or former Soldier must have completed at least 20 years of qualifying service. For Soldiers who completed the years of qualifying service prior to 5 October 1994, the last 8 years of qualifying service must have been in a component other than a regular component.

b. Paragraph 3-5 (Notification of Eligibility). Each Soldier who completes the eligibility requirements for retired pay at age 60 will be notified in writing within one year after completion of the required service. The State Adjutants General are responsible for issuing the Notification of Eligibility for Retired Pay for Non-Regular Service.

//NOTHING FOLLOWS//