

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 April 2025

DOCKET NUMBER: AR20230013730

APPLICANT REQUESTS: in effect, correction of her retirement points statement to reflect her total active service equals 8 years, and that she was separated due to a physical disability or retirement. She also requests an opportunity to personally appear before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Medical of Medical Examination
- Medical Record
- Chronological Statement of Retirement Points
- Orders D-12-505471 from the U. S. Army Reserve (USAR) Personnel Center, St. Louis, MO
- Letter, Retirement Services, U.S. Office of Personnel Management (OPM)

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 she did not receive severance pay nor unemployment. She served from March 1989 to March 1997, which means she completed her full contract. When she applied for retirement, she was not medically or physically examined nor cleared. She agreed to postpone or defer her retirement. Now, she wants her combined military and federal post office pensions as agreed in her contracts.
 - a. Additionally, she annotated on her application to the Board that she was requesting military and Federal Government pensions, an administrative correction, disability, pay and allowances, and discharge separation. Her service included commissioned office active-duty service.

b. The applicant also indicates her request is related to "Other Mental Health."

X. list what we are not going to address and why

3. Her service record contains:

a. A DD Form 214 showing she served honorably in an active duty for training status from 7 June 1988 to 28 September 1988. This service equals 2 months and 28 days. She was awarded military occupational specialty (MOS) 91E (Dental Specialist), released and transferred to the United States Army Reserve (USAR), in pay grade E-3.

b. Orders 059-001, New York Military Entrance Processing Station, dated 29 March 1989, showing the applicant enlisted with an active-duty commitment of 5 years, effective this date.

c. A mental status evaluation confirming, on 28 August 1991, as a part of her discharge processing, she underwent an evaluation. She was determined to have the mental capacity to understand and participate in proceeding deemed appropriate by her chain of command. She was mentally responsible, and she met retention requirements of chapter 3, Army Regulation (AR) 40-501.

d. DD Form 214 showing she served honorably in an active-duty status from 29 March 1989 to 25 September 1991. This service equals 2 years, 5 months, and 27 days. She held MOS 29N (Telephone Center Office Repairer), she was released and transferred to the USAR, in pay grade E-4. This DD Form 214 also shows in:

- item 25 (Separation Authority), AR 635-200, paragraph 16-2a(1)
- item 26 KGX
- item 28 "To Enter ROTC or OCS or Other Officer Commissioning Training Programs"

e. Orders 46-2 from Headquarters, 77th United States Army Reserve Command, Fort Totten, Flushing, NY, shows she was relieved from her USAR unit due to unsatisfactory participation, and she was assigned to the USAR Control Group (Annual Training), effective 26 July 1991.

f. A DD Form 4/1-4/2 (Enlistment Contract) showing on 23 September 1991, she enlisted in the USAR for 8 years as a cadet.

g. A memorandum, subject Promotion of Cadets, dated 29 October 1991, shows she was promoted to the rank/grade of sergeant/E-5, effective 19 August 1991.

4. The applicant submitted:

a. Orders D-12-505471 showing she was honorably discharged from the USAR effective 12 December 1995, in the rank/grade of private first class/E-3.

b. A letter she received from Retirement Services, U.S. Office of Personnel Management, dated 21 September 2023, stating that office had recently received her application for a deferred annuity under the Federal Employees Retirement System (FERS). Her application and complete service history were carefully reviewed.

(1) Unfortunately, her application for a deferred annuity could not be approved since she did not meet the necessary eligibility criteria as stated below in this letter. Their records showed the following:

Period of Service	Type of Service	Total Creditable Service
01/18/1997-08/16/2000		
09/29/2000 (Full Refund)	FERS	Years, 0 Months, 0 Days

(2) She took a full refund of all her FERS retirement contributions on 29 September 2000 in the amount of \$1,048. She had less than 5 years of credible civilian service, and she had no entitlement to a FERS annuity. Retirees must have at least 5 years of credible federal civilian service to receive a FERS annuity. This was their initial decision. If she wished to request reconsideration of their decision, she should refer to the enclosed Form RI 38-47, information and instructions on her reconsideration rights. Their office must receive her written request within 30 calendar days from the date of the letter.

5. During the processing of this case, on 5 April 2024, an advisory opinion was obtained from the Chief, Army Service Center, U.S. Army Human Resources Command.

a. The advisory official stated the applicant had 3 creditable reserve retirement years and 1,070 cumulative retirement points. The advisory provided the following DA Form 5016 (Chronological Statement of Retirement Points) showing the applicant's enlisted status and service as.

BEGIN DATE YR MO DAY	END DATE YR MO DAY	STATUS OR COMP	INACT DUTY POINTS	MEMBER SHIP POINTS	ACTIVE DUTY POINTS	QUALIFY FOR RETIRE YRS MO DAY	TOTAL POINTS CREDIT
19941209	19951205	USAR	000	15	0000	00 00 00	0015
19931209	19941208	USAR	000	15	0000	00 00 00	0015
19921209	19931208	USAR	000	15	0000	00 00 00	0015

19911209	19921208	USAR	000	15	0000	00	00	00	0015
19910926	19911208	USAR	000	03	0000	00	00	00	0003
19901209	19910925	RA	000	00	0291	00	09	17	0291
19891209	19901208	RA	000	00	0365	01	00	00	0365
19890329	19891208	RA	000	00	0255	00	08	10	0255
19881209	19890328	USAR	014	05	0000	00	03	20	0019
19871209	19881208	USAR	000	15	0062	01	00	00	0077
		TOTAL	014	83	0973	03	09	17	1,070

b. The advisory official also stated the Veterans Inquiry Branch could create a military buy back verification of service if that is what she needs, however, they would need her full career of leave and earning statements. She was provided a point of contact.

6. On 8 April 2024, the applicant was provided the Advisory Opinion and was given an opportunity to respond. She did not respond during the allowed time period.

7. In support of her application the applicant provided, in part, the following documents:

a. Report of Medical Examination, dated 14 October 1988, showing the following items are annotated as abnormal:

- item 39 (Identifying Body Marks, Scars, and Tattoos), with an annotation of "scar left knee"
- item 43 (Pelvic), "no GYN pathology"
- item 73 (Notes and Significant or Internal History), "qualified for airborne duty, 18 March 1989"
- item 76 (Physical Profile), PULHES is not clear

b. A medical record dated 2 December 1989, which is unclear because the applicant appears to have added statements, the doctor did not write.

c. Chronological Statement of Retirement Points, dated 11 May 1991, showing she noted on this form that she was on active duty from 9 December 1989 to 8 December 1990. This Board provided the applicant a Chronological Statement of Retirement Points, dated 4 April 2024, correctly showing she was on active duty during this period of service.

d. Discharge Orders D-12-505471 from the USAR, asking various questions about her Reserve contracts and records, which are not in the available evidence. This order advised her that if she had questions in the future about her military records or her military service, she could contact the National Personnel Records Center, 9700 Page Boulevard, St Louis, MO 63132-5200. This is the central repository of personnel-related records for both the military and civil services of the United States Government. She

was also advised she no longer has a military status; therefore, her records are no longer held by the Army.

8. There is nothing in the available evidence to indicate the applicant had a medical condition that kept her from being able to reasonably perform the duties of her office, grade, rank or rating. That required medical processing.

9. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and accompanying documentation, the military electronic medical record (EMR – AHLTA and/or MHS Genesis), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant is applying to the ABCMR in essence requesting a referral to the Disability Evaluation System (DES).

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. Orders published by the 77th United States Army Reserve Command show she was separated for unsatisfactory participation on 26 July 1991.

d. The behavioral health aspects of this case will be addressed by an ARBA behavioral health advisor in a separated advisory opinion

e. The applicant does not identify the physical condition(s) she believes merit referral to the DES.

f. The only contemporaneous medical documentation submitted with the application is a note from 2 November 1989, and it appears she was given a cream for a localized area of swelling or insect bite.

g. Her period of service predates the EMR.

h. There is insufficient probative medical evidence the applicant had any additional duty incurred medical condition which would have failed the medical retention standards of chapter 3 of AR 40-501, Standards of Medical Fitness, prior to her voluntary

separation; or which prevented her from maintaining contact with her chain of command. Thus, there was no cause for referral to the Disability Evaluation System.

i. Review of the applicant's electronic records in JLV shows she was awarded three VA service-connected disability ratings, 10% for superficial scars and 0% each for kidney stones and scars.

j. The DES compensates an individual only for service incurred condition(s) which have been determined to disqualify him or her from further military service. The DES has neither the role nor the authority to compensate service members for anticipated future severity or potential complications of conditions which were incurred or permanently aggravated during their military service; or which did not cause or contribute to the termination of their military career. That role and authority is granted by Congress to the Department of Veterans Affairs and executed under a different set of laws.

k. It is the opinion of the ARBA medical advisor a referral of this case to the Disability Evaluation System is unwarranted.

BEHAVIORAL HEALTH REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of correction to her records to show entitlement to severance pay or unemployment; a copy of her full reduction in force contract; credit for her time served as a commissioned officer; entitlement to a military retirement; entitlement to a Federal Government pension.

b. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following:

- The applicant enlisted into the USAR on 9 December 1987 and was honorably released from active duty for training on 28 September 1988, completing 2 months and 28 days of active service.
- Orders 46-2 from Headquarters, 77th USAR Command, Fort Totten, Flushing, NY, shows she was relieved from her USAR unit due to unsatisfactory participation, and she was assigned to the USAR Control Group (Annual Training), effective 26 July 1991.
- A DD Form 4/1-4/2 (Enlistment Contract) shows on 23 September 1991 she enlisted in the USAR for 8 years as a cadet.
- A DD Form 214 shows she served honorably in an active-duty status from 29 March 1989 to 25 September 1991. This service equals 2 years, 5 months, and 27 days.

- The applicant submitted Orders D-12-505471 showing she was honorably discharged from the USAR effective 12 December 1995, in the rank/grade of private first class/E-3.

c. Review of Available Records: The Army Review Board Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts she is entitled to a military retirement, and she indicated "other mental health" as an issue or condition related to her request. This BH Advisor's review of records and opinion will only be in regard to her assertion of a medical retirement as the additional requests are outside of the scope of expertise. A Report of Medical Examination dated 14 October 1988 showed no indication of any psychiatric symptoms or conditions. A Report of Mental Status Evaluation (request for discharge for good of the service) dated 28 August 1991 showed no indication of any mental health symptoms or diagnoses and indicated the applicant met retention standards, and she had capacity to understand and participate in administrative proceedings. There was insufficient evidence that the applicant was diagnosed with a psychiatric condition while on active service.

d. The Joint Legacy Viewer (JLV), which contains medical and mental health records for both DoD and VA, was reviewed and showed the applicant is 10% service connected for three physical health conditions. Documentation in 2015 noted utilization of VA for homeless/housing services, but there was no indication of any mental health diagnoses or treatment.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support that the applicant had a condition or experience that warrants a medical retirement. Records from her time in service showed a Mental Status Evaluation conducted on 28 August 1991, which showed no mental health symptoms or diagnoses. A review of VA records did not indicate any service connection for any mental health conditions, and there was no evidence of any mental health treatment. There is insufficient evidence to support that the applicant had a medically disabling condition while on active service. However, the applicant contends she had a disabling mental health condition while on active service, and per Liberal Consideration her contention is worthy of the board's consideration.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? NA; request is for medical retirement

(2) Did the condition exist or experience occur during military service? NA; request is for medical retirement

(3) Does the condition or experience actually excuse or mitigate the discharge? NA; request is for medical retirement

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 available documentation, the Board made the following findings and recommendations related to the requested relief:

Correction of her retirement points statement: DENY, based upon the available documentation, the findings outlined in the HRC advisory opinion, and the lack of any rebuttal of those findings submitted by the applicant.

Physical disability or retirement: DENY, based upon the available documentation and the findings and recommendations outlined within the medical and behavioral health review.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XXX	:XXX	:XXX	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.

//SIGNED//
X

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, 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 (ABCMR) states an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.
3. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.
4. Army Regulation 140-185 prescribes the types of training and activities for which retirement points are authorized. It discusses the procedures for recording retirement point credits and training for U.S. Army Reserve Soldiers.
5. The DA Form 5016 provides a permanent record of the total retirement points Soldiers earn during an anniversary year. It informs Soldiers whether they earned sufficient points for a qualifying year for retirement or retention in an active status. It also provides Soldiers an opportunity to review their retirement points to request corrections. The document is prepared by U.S. Army Human Resources Command (AHRC) from the processing of data furnished manually and utilizing automation. It is prepared for Soldiers under AHRC command to include obligated enlisted Soldiers who have earned

at least one retirement point. It is prepared to cover a full anniversary year of active-duty training or active duty; prepared for all Soldiers regardless of the number of points awarded; and issued annually and upon correction to a record.

//NOTHING FOLLOWS//