

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 August 2024

DOCKET NUMBER: AR20230013982

APPLICANT REQUESTS: correction of Disability Orders Number D 199-01 to reflect “10 years 8 months 11 days” rather than “10 years 6 months 16 days” of active service.

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

- DD Form 149 (Application for Correction of Military Record)
- Orders Number D 199-01, 18 July 2023
- Orders Number 5543915, 1 August 2023
- Email communication
- U.S. Army Human Resources Command (AHRC) letter, 17 October 2023

FACTS:

1. The applicant states in pertinent part that the order issued by the U.S. Army Physical Disability Agency (USAPDA) (Orders Number D 199-01) is incorrect because it does not accurately reflect his total qualifying years of service as “10 years 8 months 11 days” as annotated on his DA Form 5016 (Chronological Statement of Retirement Points). This error is precluding the processing of his Concurrent Retirement and Disability Pay (CRDP).

2. A review of the applicant’s available service records reflects the following:

- a. On 25 May 1982, the applicant enlisted in the Army National Guard (ARNG).
- b. He entered active duty for training from 5 July to 21 November 1982. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 3 months and 15 days of active service.
- c. On 20 November 2001, the applicant was honorably discharged from the ARNG. His NGB Form 22 (Report of Separation and Record of Service) item 10a. (Net Service this Period) reflects 19 years 5 months 26 days; item 10d. (Total Service for Pay) reflects “19 years 5 months 26 days.
- d. On 21 November 2001, the applicant enlisted in the U.S. Army Reserve.

e. He entered active duty on 31 October 2016 and he was honorably release from active duty on 30 September 2018. His DD Form 214 shows he completed 1 year and 11 months of active service, with 3 months and 15 days of prior active service.

e. On 12 April 2007, the applicant was issued a Notification of Eligibility for Retired Pay at Age 60 (20-Year Letter).

f. On 26 April 2023, an informal Physical Evaluation Board was convened finding the applicant physically unfit for continued military service with a recommendation that he be permanently medically retired. The applicant non-concurred with the board's recommendation and requested a formal hearing. On or about 18 July 2023, the board's decision was upheld.

g. On 18 July 2023, the USAPDA issued Orders Number D 199-01 releasing the applicant from assignment and duty because of a physical disability incurred while entitled to basic pay and under conditions that permit his retirement for permanent physical disability effective 17 August 2023. These orders further provide the following:

- Percentage of Disability: 40 percent
- Disability Retirement: 10 years 6 months 16 days
- Basic Pay: 41 years 2 months 23 days
- Total Service for Disability Retirement: 10 years 6 months 16 days

h. On 1 August 2023, the Department of the Army issued Orders Number 5543915 placing the applicant on the Permanent Disability Retired List (PDRL) effective 18 August 2023.

3. The applicant provides:

a. Email communication, reflective of the applicant being advised by AHRC on 17 October 2023, that his retirement order needed to be corrected to reflect "10 years 8 months 11 days" rather than "10 years 6 months 16 days." Due to this error his request for CRDP could not be processed. He was further redirected to the Board to correct the error.

b. A letter from AHRC, 17 October 2023, reflective of the applicant being advised that there was a conflict with the service computation reflected on the orders placing him on the PDRL and his DA Form 5016 and NGB Form 23A (ARNG Current Annual Statement). Therefore, his CRDP could not be processed by the Gray Area Retirements Branch. He was further redirected to the Board to correct the error.

4. The applicants most recent DA Form 5016 (28 February 2024), reflects a total of 3,854 retirement points as follows:

- Inactive Duty Points: 1,678
- Membership Points: 611
- Active-Duty Points: 1600
- Extension Points: 1
- Total Points: 3,854 points

5. Years of Service: The years of creditable service for computation of the retired pay percentage multiplier include all active duty and any credited reserve points divided by 360. Based on that formula, the applicant completed 10 years, 8 months, 11 days.

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 and standard review based on law, policy and regulation. The governing regulation provides that years of creditable service for computation of the retired pay percentage multiplier include all active duty and any credited reserve points divided by 360. The Board agreed there was sufficient documentation to warrant relief in this case by awarding the applicant 10 years, 8 months, and 11 days of creditable service. Therefore, the Board granted relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	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 relief. As a result, the Board recommends Orders D 199-01 dated 18 July 2023 of the individual concerned be corrected to reflect "Disability Retirement: 10 years, 8 months, and 11 days."



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.C. Section 1208 (Computation of Service) provides that a member of the armed forces who is not a member of a regular component shall be credited, for the purposes of this chapter, with the number of years of service that he would count if he were computing his years of service under section 127333 (Computation of Retired Pay: Computation of Years of Service).

2. Title 10 U.S.C. (Computation of Retired Pay: Computation of Years of Service) provides the person's years of service and any fraction of such a year are computed by dividing 360 into the sum of the following:

- days of active service
- the person's days of full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned
- one day for each point credited to the person

3. Title 10 U.S.C. Section 1414 (Members Eligible for Retired Pay who are also Eligible for Veterans' Disability Compensation for Disabilities Rated 50 Percent or Higher: Concurrent Payment of Retired Pay and Veterans' Disability Compensation) provides that a member or former member of the uniformed services who is entitled for any month to retired pay and who is also entitled for that month to veterans' disability

compensation for a qualifying service-connected disability is entitled to be paid both for that month.

4. According to the Defense Finance and Accounting Service, CRDP allows military retirees to receive both military retired pay and VA compensation. This was prohibited until the CRDP program began on 1 January 2004. You must be eligible for retired pay to qualify for CRDP. If you were placed on a disability retirement, but would be eligible for military retired pay in the absence of the disability, you may be entitled to receive CRDP if:

- a. You are a regular retiree with a VA disability rating of 50 percent or greater.
- b. You are a reserve retiree with 20 qualifying years of service, who has a VA disability rating of 50 percent or greater and who has reached retirement age.
- c. You are retired under Temporary Early Retirement Act and have a VA disability rating of 50 percent or greater.
- d. You are a disability retiree who earned entitlement to retired pay under any provision of law other than solely by disability, and you have a VA disability rating of 50 percent or greater. You might become eligible for CRDP at the time you would have become eligible for retired pay.
- e. CRDP allows military retirees to receive both military retired pay and VA compensation. The member may be entitled to CRDP if that member is a regular retiree. This Board does not determine entitlement to CRDP. An audit of the members account requires researching pay information from both Defense Finance and Accounting Service and VA.

//NOTHING FOLLOWS//