

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 August 2024

DOCKET NUMBER: AR20230014026

APPLICANT REQUESTS: in effect,

- his retirement rank/grade be changed to major (MAJ)/O-4; the highest rank he served on active duty satisfactorily
- recalculation of his retirement pay and active-duty credit time for retirement

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

- DD Form 149 (Application for Correction of Military Record)
- Defense Finance and Accounting Service (DFAS) Pay Charts, 1 January 2013 to 2016
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 17 November 2016
- DD Form 214, 31 January 2023
- DFAS letter to applicant, 16 September 2023
- Applicant's DFAS High-36 Retired Pay Calculator

FACTS:

1. The applicant states:

a. His request has two parts: (1) He is requesting to have his retirement rank upgraded from chief warrant officer two (CW2)/W-2 to MAJ/O-4. (2) He believes DFAS did not give him full credit for the number of days he served while on Active Duty. Therefore, they calculated his current High-36 incorrectly.

b. Approximately 2 months ago he submitted a question regarding how DFAS calculated his retirement pay (Ticket # 202308170904). It is his contention that DFAS may have calculated his High-36 incorrectly. From 1 January 2010 to 16 November 2016, he held the rank of MAJ. From 17 November until his retirement he held the rank of CW2. After reviewing the DFAS military pay charts from 2013 through 2016, he noted that his base pay during his last 3 years as a MAJ was higher than his last 3 years as a CW2. (See attached DFAS pay charts with number of years served, rank, and base pay highlighted).

c. On 16 September 2023, DFAS responded to his inquiry. Unfortunately, they were unable to process his request because any correction to retirement factors is considered to be a correction to military records. Therefore, he needs to submit his request through his branch of service's board of corrections (See attached response memorandum: NBW_ DFAS response).

d. While reviewing the documentation sent to him regarding his inquiry, he noted discrepancies on the DFAS High-36 Retired Pay Calculator. On line number 13 and 14 the final pay amounts appear to be incorrect based on his total number days of service for those months. Line number 13 shows he only served 6 days and line number 14 shows he only served 24 days, which reduces his total pay by one month. He attached a copy of the document with line number 13 and 14 highlighted for the Board's review. (See attached document: NBW_ DFAS High-36 Calculation). Additionally, he did reach out to DFAS, via telephone, and their customer care representatives confirmed he needed to submit a request through his branch of service's board of corrections.

2. A review of the applicant's military records show the following:

a. Having prior Regular Army enlisted service, DA Form 71 (Oath of Office - Military Personnel) shows he was appointed as a Reserve commissioned officer and executed his oath of office on 3 August 2000, in the rank/grade of second lieutenant (2LT)/O-1.

b. On 16 December 2003, the U.S. Army Human Resources Command (HRC) published Orders Number 350-046, which promoted the applicant to the rank/grade of captain/O-3, effective 1 January 2004.

c. On 17 November 2016, he was honorably discharged from active duty. DD Form 214 shows in:

- item 4a (Grade, Rate or Rank) – MAJ
- item 12c (Net Active Service This Period) – 16 years, 3 months, 15 days
- item 12d (Total Prior Active Service) – 3 years, 6 months, 16 days
- item 12i (Effective Date of Pay Grade) – 1 January 2010

d. On 18 November 2016, DA Form 71 shows he was appointed as a Reserve warrant officer and executed his oath of office.

e. On 1 December 2016, HRC published Order Number 336-001, which promoted the applicant to CW2, effective 19 November 2016.

f. His record contains Order Number 052-012 dated 21 February 2017, published by HRC, which shows the applicant was promoted to the rank of lieutenant colonel, effective on with a date of rank of 1 March 2017. Date of Senate Confirmation shows

26 May 2016.

g. On 31 January 2023, he was honorably retired from active duty by reason of "sufficient service for retirement". DD Form 214 shows in:

- item 4a (Grade, Rate or Rank) – CW2
- item 12c (Net Active Service This Period) – 6 years, 2 months, 13 days
- item 12d (Total Prior Active Service) – 19 years, 10 months, 1 day
- item 12i (Effective Date of Pay Grade) – 19 November 2016

h. On 15 March 2023, the Department of the Army published Orders Number 0004223347.00, which placed the applicant on the retired list in the rank of CW2, effective 1 February 2023. The orders show his Total Service as 26 years and Total Active Federal Service as 25 years, 9 months, and 28 days.

i. On 9 August 2023, the Massachusetts Army National Guard amended Orders Number 0004223347.00 to show Total Service as 26 years vice 25 years, 9 months, and 28 days.

j. On 7 December 2023, HRC published Order Number 341-001, which promoted the applicant to the rank of MAJ, effective on with a Date of Rank of 1 January 2010.

3. In support of his case the applicant provides:

a. DFAS Pay Charts from 1 January 2013 to 2016 showing basic pays, incentive and special pays, drill pay, allowances and entitlements.

b. DFAS letter to applicant dated 16 September 2023, wherein, the Military Pay Technician, Retired and Annuitant Pay stated, they [DFAS] were unable to process the applicant's request because any correction of record must be initiated through his branch of service. Changes to retirement factors are considered to be a correction of military records under the provisions of Title 10 of the United States Code, Chapter 79, and Sections 1551 through 1557.

c. DFAS High-36 Retired Pay Calculator which shows, in pertinent part, line numbers 13 and 14 the final pay amounts appear to be incorrect based on the applicant's total number days of service for those months. Line number 13 shows he only served 6 days and line number 14 shows he only served 24 days, which reduces his total pay by one month.

4. On 24 June 2024, the National Guard Bureau (NGB), Chief, Special Actions Branch provided an advisory opinion for this case and recommended approval. The advisory official stated:

a. The applicant states he was retired as a CW2 vice his highest rank held of MAJ. He would like this rectified and retired as a MAJ. He also states he believes his high three years were incorrectly calculated for retired pay. The applicant has reached out to DFAS and was referred to the ABCMR to request his corrections.

b. After review of the applicant's records, he held the rank of MAJ from 1 January 2010 until 16 November 2016 and held the rank of CW2 from 17 November 2016 until transfer to the retired list effective 1 February 2023. The applicant was retired in the rank of CW2 with order number 0004223347.01. Per Title 10, U.S. Code, Chapter 69, a commissioned officer will retire at the highest permanent grade satisfactorily served for a period not less than 3 years.

c. After coordination with the NGB's retirement services branch, the applicant's retirement order is incorrect. Currently, the total active federal service time should read 26 years and 14 days vice the current time of 25 years, 9 months, and 28 days. Further recalculation shows that the applicant was not awarded his 1405 [Title 10, USC, section 1405] service time in his total service calculation. The applicant's NGB Form 23 shows 2 months and 9 days of qualifying 1405 service time. The applicant's active federal service time with the recalculation and 1405 service time should read 26 years, 2 months, and 26 days.

d. It is the recommendation of this office that the applicant's request be approved. The applicant's highest grade served for no less than three years is MAJ/O-4 and should be retired in that grade. The applicant's service time for retirement should be recalculated to show 26 years, 2 months, and 26 days vice the current calculation of 25 years, 9 months, and 28 days. Per recommendation of NGB retirement service branch correction would need to be completed by Fort Campbell TC [Transition Center], KY 42223-5000 and sent to DFAS for retirement pay correction.

5. On 16 July 2024, the applicant responded to the NGB advisory opinion and stated, he reviewed the letter, and everything looks good from his end.

BOARD DISCUSSION:

1. 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, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of her characterization of service. Upon review of the applicant's petition, available military record and National Guard Bureau-Special Actions Branch advisory opinion, the Board concurred with the advising official

recommendation for approval finding the applicant's retirements orders are incorrect and the applicant highest grade served for no less than three years is major and his records should reflect his retired grade as major.

2. The Board determined based on the advisory opinion, the applicant's service time for retirement should be recalculated to show 26 years, 2 months, and 26 days vice the current calculation of 25 years, 9 months, and 28 days. Furthermore, per recommendation of National Guard Bureau (NGB) retirement service branch correction would need to be completed by Fort Campbell TC [Transition Center], KY and sent to DFAS for retirement pay correction. Based on this, the Board granted relief.

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 relief. As a result, the Board recommends that all Department of Army records and Defense Finance and Accounting System (DFAS) of the individual concerned be corrected to show the applicant's:

- highest grade served is MAJ/O-4 and should be retired in that grade
- recalculated retirement as 26 years, 2 months, and 26 days vice the current calculation of 25 years, 9 months, and 28 days. Furthermore, per recommendation of National Guard Bureau (NGB) retirement service branch correction would need to be completed by Fort Campbell TC [Transition Center], KY and sent to DFAS for retirement pay correction.



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 (USC), section 1370 - Regular commissioned officers, states:

a. Unless entitled to a different retired grade under some other provision of law, a commissioned officer (other than a commissioned warrant officer) of the Army, Navy, Air Force, Marine Corps, or Space Force who retires under any provision of law other than chapter 61 or 1223 of this title shall be retired in the highest permanent grade in which such officer is determined to have served on active duty satisfactorily.

b. The determination of satisfactory service of an officer in a grade under paragraph (1) above, shall be made by the Secretary of the military department concerned, if the officer is serving in a grade at or below the grade of major general, rear admiral in the Navy, or the equivalent grade in the Space Force.

2. Title 10, USC, section 1405 - Years of Service, states, for the purposes of the computation of the years of service of a member of the armed forces under a provision of this title providing for such computation to be made under this section, the years of service of the member are computed by adding —

- his years of active service;
- the years of service, not included in clause (1), with which he was entitled to be credited on May 31, 1958, in computing his basic pay; and
- the years of service, not included in clause (1) or (2), with which he would be entitled to be credited under section 12733 of this title if he were entitled to retired pay under section 12731 of this title.

3. Title 10, USC, section 1407 - Retired pay base for members who first became members after 7 September 1980: high-36 month average, states, the high-36 months of a member or former member whose retired pay is covered by paragraph (1) or (2) are the 36 months (whether or not consecutive) out of all the months before the member or former member became entitled to retired pay or, in the case of a member or former member entitled to retired pay by reason of an election under section 12741(a) of this title, before the member or former member completes the service required under such section 12741(a), for which the monthly basic pay to which the member or former member was entitled (or would have been entitled if serving on active duty during those months) was the highest. In the case of a former member, only months during which the former member was a member of a uniformed service may be used for purposes of the preceding sentence.

//NOTHING FOLLOWS//