

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 August 2024

DOCKET NUMBER: AR20230014802

APPLICANT REQUESTS: in effect, his mandatory removal date (MRD) to be extended until he obtains 20 years of qualifying service for non-regular retirement and reinstated in Reserve active status.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States)
- U. S. Army Human Resources Command (AHRC) appointment letter
- Request for extension of MRD
- Commander's recommendation for extension of MRD
- DA Form 4187 (Personnel Action)
- Integrated Personnel and Pay System - Army (IPPS-A) screenshot
- DA Form 1559 (Inspector General Action Request)
- U. S. Army Reserve Command (USARC) Orders Number 6423455

FACTS:

1. The applicant states in effect, he enlisted in the U. S. Army Reserve (USAR) on 16 July 2006 as a non-prior service Soldier over the age of 42 and then commissioned on 8 September 2008. His MRD was 30 November 2023 for maximum age. He requested the extension of his MRD through his chain of command; however, his request was rejected by the U.S. Army Reserve Command (USARC). He filed a complaint with the Inspector General (IG) on 22 September 2023, but no action was taken by the IG. USARC G1 published his discharge order on 30 October 2023 for an effective date of 30 November 2023.

a. The Army never gave him the opportunity to serve 20-years by not extending him in the service but discharged him at age 60. Every service member should have the change to fulfill 20-years of honorable service. He requests his MRD be extended to obtain 20-years of service.

b. He is an experienced logistician with additional skills in operations contract support, petroleum and a native Chinese linguist who has no deployment limitations. He maintained a perfect Army Physical Fitness Test score and scored 560 on the Army Combat Fitness Test. He is always ready and willing to deploy at the needs of the Army. He volunteered to deploy to Kuwait during the Coronavirus epidemic when no officers volunteered for the mission. He enlisted when the Army was critically short of personnel as the Army continues to miss their recruiting goals today. It does not make sense to separate a qualified officer who had the mental/physical ability to fill the Army's needs.

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

a. On 15 July 2006, the applicant enlisted in the USAR. His DD Form 4 shows he was 42-years, [REDACTED]. His DD Form 1966 (Record of Military Processing – Armed Forces of the United States) section IV – Remarks states the "Soldier was inadvertently enlisted into the USAR over the age of 42 as a non-prior service Soldier. This error was caught prior to the Soldier shipping. Per e-mail traffic from U. S. Army Recruiting Command, the direction was to keep the Soldier in the Reserve Delayed Entry Program and ship him despite the fact he was too old.

b. On 29 August 2006, by authority of Orders Number C-08-628630, issued by the AHRC, the applicant was assigned to the USAR Troop Program Unit (TPU) effective 28 August 2006.

c. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant was ordered to active duty for training effective 23 August 2006. He was honorably released from active duty on 15 December 2006 after completing 3-months and 23-days of active service.

d. On 30 April 2007, by authority of Orders Number 07-120-00420, issued by the 330th Medical Brigade, the applicant was ordered to active duty in support of Operation Iraqi Freedom effective 20 June 2007.

e. On 8 July 2008, the applicant was honorably released from active duty. His DD Form 214 shows he completed 1-year and 19-days of active service.

f. On 8 September 2008, the applicant executed his oath of office and was appointed a Reserve commissioned officer in the rank of second lieutenant.

g. On 1 October 2008, by authority of Orders Number 08-275-00028, issued by Headquarters, Army Reserve Medical Command, the applicant was honorably discharged to the USAR effective 7 September 2008 to accept a commission.

h. On 28 October 2008, AHRC informed the applicant he was appointed as a Reserve commissioned officer of the Army effective 8 September 2008 with an approved age waiver.

i. On 24 November 2008, by authority of Orders Number C-11-820327, issued by AHRC, the applicant was assigned to the USAR TPU due to an appointment effective 8 September 2008.

j. The applicant's DD Form 214 shows the applicant was ordered to active duty for training effective 11 January 2009. He was honorably released from active duty on 22 May 2009 after completion of 4-months and 12-days of active service.

k. The applicant's DD Form 214 shows the applicant was ordered to active-duty effective 15 January 2011 in support of Operation Enduring Freedom. He was honorably released from active-duty effective 30 November 2011 after completion of 10-months and 16-days of active service.

l. On 17 November 2016, by authority of Orders Number 16-322-00006, issued by the 76th USAR Operational Response Command, the applicant was ordered to active duty in support of Operation Enduring Freedom effective 6 January 2017.

m. On 6 August 2017, the applicant was honorably released from active duty. His DD Form 214 shows the applicant completed 7-months and 1-days of active service.

n. On 23 March 2021, by authority of Orders Number HR-1082-00011, issued by AHRC, the applicant was ordered to active duty for operational support effective 3 April 2021.

o. On 28 May 2022, the applicant was honorably released from active duty. His DD Form 214 shows the applicant completed 1 year, 1 months, and 26 days of active service.

o. On 30 October 2023, by authority of Orders Number 6423455, issued by USARC, the applicant was involuntarily separated for maximum age from the USAR effective 30 November 2023.

p. On 10 November 2023, the applicant turned the age of 60.

q. The applicant's DA Form 5016 (Retirement Accounting Statement) dated 2 December 2023 shows the applicant obtained 17-years, 4-months and 17-days of qualifying service for retirement.

3. The applicant provides:

a. His request for MRD extension for the Commander of AHRC where he in effect stated his joint military and civilian work experience and his Chinese language skill make him a valuable asset to the U. S. Army. He requests his MRD to be extended until 31 October 2026 to completed 20-years of military experience at age 62. He was over 42 years of age when he enlisted in the Army and was the oldest graduate for Basic Combat Training in the Army. He is mentally and physically fit with years of a variety of military and civilian experience. The complete request is available for the Boards review.

b. The applicant's commander recommended his request for his MRD extension be approved to complete 20 years of service. He states the applicant is one of the most physically fit, intelligent and experienced officers in the Army who possesses a strong logistics background. He is adept in scientific research and information technology and is fluent in Chinese.

c. DA Form 4187 the applicant signed on 10 May 2023 requesting for retention beyond his MRD until 31 October 2026. He understood his retention could not extend beyond age 62. The justification for his request was; DLA Energy mission is expanding and picking up a greater footprint in continental united states based missions, U.S. Indo-Pacific Command, and the other Combatant Commands. [Applicant] is a qualified Petroleum and Water Officer and Operational Contracting Support Officer. A skill set that is in high demand for the upcoming challenges. He holds a bachelor in science degree in Microbiology and a master in science degree in Computer Science. He is one of the most physically fit, intelligent and experienced logisticians. He possesses strong officer leadership, research and analysis, information technology and native Chinese language skills. The DA Form 4187 was not endorsed by his chain of command.

d. Screenshot from IPPS-A which show USAR returned the PAR (personnel action request) without action stating the justification was not sufficient for retention beyond his MRD which pertained to the applicant attaining 20-years of service for retirement. He cannot be extended beyond age 62 and he will not attain 20-year for retirement by the age of 62.

e. DA Form 1559 shows on 20 September 2023, the applicant requested assistance to reverse USARC's decision to deny his request for an extension of his MRD. He states he was not afforded the opportunity to attain 20-years of honorably service as he was allowed to enlist after his 42 birthday with his MRD for age of 30 November 2023. Anyone who is allowed to enlist or commission in the Army should have the opportunity to fulfill 20-years of service and qualify for a military retirement. USARC G1

mismanages resources when they separate fully qualified officers like him when they have a shortage of personnel and pay out large amounts of money in bonuses.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not 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. Upon careful review of the applicant's petition, available military records, and the advisory opinion provided by the Headquarters, United States Army Reserve Command – Officer Management Branch, the Board concurred with the advising official's recommendation to deny relief. The Army Reserve is currently authorized 923 Majors within the Area of Concentration (AOC) 90A—Logistics—and currently has 953 assigned, reflecting a 103% overstrength in the applicant's grade. Documentation confirms that the applicant served as a 90A logistics officer in a liaison capacity with the Army Reserve Element of the Defense Logistics Agency.

2. The advisory opinion noted that even if the applicant's request to extend his MRD to age 62 had been granted, he would not have accrued sufficient qualifying years to meet the threshold for a non-regular retirement at 20 years. Regulatory guidance specifies that commissioned officers (colonels and below) are generally separated at age 60 or upon reaching their maximum years of commissioned service, whichever occurs first. While retention beyond age 60, up to age 62 under 10 USC § 14509, may be considered individually, such exceptions must be based on the needs of the Reserve Component and be clearly justified. Based on the applicant's overstrength AOC and absence of mission-driven justification, the Board determined that the applicant's retention did not meet the needs of the Army Reserve. As such, the Board found the request for MRD extension and reinstatement into Reserve active status lacks sufficient evidence and merit. Therefore, relief is denied.

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.

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 United States Code (USC), section 1251 (Age 62: regular commissioned officers in grades below general and flag officer grades; exceptions), (a) General Rule: Unless retired or separated earlier, each regular commissioned officer of the Army, Navy, Air Force, Marine Corps, or Space Force (other than an officer covered by section 1252 of this title or a commissioned warrant officer) serving in a grade below brigadier general or rear admiral (lower half), in the case of an officer in the Navy, shall be retired or separated, as specified in subsection (e), on the first day of the month following the month in which the officer becomes 62-years of age.
2. Army Regulation (AR) 135-175 (Army National Guard and Reserve Separation of Officers), prescribes the policies, criteria, and procedures governing the separation of Reserve officers of the Army. Paragraph 4-3 (Removal from an active status) a (2) (Maximum age), Attaining maximum allowable age, (a) USAR and ARNGUS commissioned officers (colonels and below) will be separated at age 60 or maximum years of commissioned service, whichever comes first. Requests for retention until the maximum age limit prescribed by law (age 62 under 10 USC 14509) will be considered on an individual basis. Such requests must be based on the needs of the RC and must be justified accordingly. Requests for individual exceptions to the regulatory removal requirement may be submitted through the officer's chain of command and DCS, G-1, to the ASA (M&RA) for approval.
3. Title 10 USC, section 14509 (Separation at age 62: reserve officers in grades below brigadier general or rear admiral (lower half)), Each reserve officer of the Army, Navy,

Air Force, or Marine Corps in a grade below brigadier general or rear admiral (lower half) who has not been recommended for promotion to the grade of brigadier general or rear admiral (lower half) and is not a member of the Retired Reserve shall, on the last day of the month in which that officer becomes 62 years of age, be separated in accordance with section 14515 of this title.

4. Title 10 USC, section 14515 (Discharge or retirement for age), Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status or on an inactive-status list and who reaches the maximum age specified in section 14509, 14510, 14511, or 14512 of this title for the officer's grade or position shall (unless the officer is sooner separated or the officer's separation is deferred or the officer is continued in an active status under another provision of law) not later than the last day of the month in which the officer reaches that maximum age; (2) be discharged from the officer's reserve appointment if the officer is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.

5. AR 140-10 (Army Reserve Assignments, Attachments, Details, and Transfers), prescribes policies, responsibilities, and procedures to assign, attach, detail, remove, or transfer U.S. Army Reserve (USAR) Soldiers.

a. Paragraph 7-3 (Maximum age), a. Exceptions to removal rule 2 are numbered 1, 2, 8, 15, and 18. Soldiers removed under this rule will be transferred to the Retired Reserve, if eligible, unless discharge is requested. b. Soldiers not sooner removed for another reason will be removed when they reach maximum age. Removal date will be the last day in which they reach the age stated. Age 60 for:

- General officers
- Field and company grade officers
- Commissioned WO who have earned 20 QYS for retired pay prior to age 60
- Soldiers having 20 or more years of qualifying Federal service
- Enlisted Soldiers

b. Commissioned officers (excluding WO) may request exceptions to the regulatory removal requirement of age 60 submitted through the officer's chain of command and DCS, G – 1, to the Assistant Secretary of the Army (Manpower and Reserve Affairs) for approval. Each request must state a mission-based reason for the officer's continued active status service and the officer's chain of command must endorse. Each request must further indicate whether the officer will qualify for non-regular retirement at age 60 and whether the officer will attain their maximum years of commissioned service during the requested period. Requests for individual exceptions that do not state a mission-based reason must explain why the officer's continued service is in the best interest of

the Army, and such requests may only be approved by the ASA (M&RA) or the SECARMY.

c. Paragraph 7-14 (Numbered Exceptions), The following numbered exceptions to specific reasons for removal from an active status are authorized.

- Exception number 1 (removal rule 2). Exception to removal for failure to earn the required 50 retirement points
- Exception number 2 (removal rules 1, 2, 3, 4, and 15); Officers having 18 or 19-years of qualifying Federal service for non-regular retired pay will not be removed without their consent, Officers who meet this criteria on the date removal is required will be retained to complete 20 years.
- Exception number 8 (removal rule 2). (1) Retain Soldiers, when there is a valid military requirement and a qualified replacement is not available. Approval of the SECARMY is required for major generals, Requests will be submitted by the Soldier's immediate commander

Send request at least 180 days before the Soldier's 60th birthday and include the following: (a) Justification for retention; (b) Availability of a replacement, and (c) How retention would benefit the military service. Retained Soldiers will be removed on the last day of the month they reach age 62.

//NOTHING FOLLOWS//