

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 September 2024

DOCKET NUMBER: AR20230015212

APPLICANT REQUESTS: correction of his DA Form 5016 (Retirement Accounting Statement) to reflect in Retirement Years Ending (RYE):

- 29 April 2020 – 6 non-paid retirement points
- 29 April 2022 – 10 non-paid retirement points

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 1380 (Record of Individual Performance of Reserve Duty Training) for 18 through 19 October 2019
- DA Form 1380 for 11 through 12 January 2020
- DA Form 1380 for 17 through 18 July 2021
- DA Form 1380 for 11 September 2021
- DA Form 1380 for 6 through 7 November 2021
- DA Form 1380 for 11 through 12 December 2021
- 331st Movement Control Team Memorandum, Subject: Letter of Lateness for Submission of DA Form 1380 (Points Only) for Sergeant (SGT) H-, J- (the applicant)

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 he attended his unit training assemblies in a non-paid status for points only due to his Department of Veterans Affairs (VA) disability. The unit sign-in roster had him coded as points only but the DA Forms 1380 for the unit training assembly were not submitted to update his DA Form 5016. He requests his DA Form 5016 be corrected to reflect the missing 16 non-paid retirement points.

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

- a. On 19 September 1990, the applicant enlisted in the Regular Army (RA) and continued service through an extension.
- b. On 18 May 1995, the applicant was honorably released from active duty and assigned to the U.S. Army Reserve (USAR) Control Group (Reinforcement). DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed 4-years and 8-months of active service.
- c. The applicant's service record is void of evidence of his discharge from the USAR.
- d. On 30 April 2007, the applicant enlisted in the RA and he had continuous service through reenlistments and extensions.
- e. On 1 April 2016, the applicant enlisted in the USAR.
- f. On 7 January 2017, the applicant was honorably released from active duty and assigned to a USAR Troop Program Unit. DD Form 214 shows the applicant completed 9-years, 8-months, and 8-days of active service.
- g. The applicant's DA Form 5016 shows he earned in RYE:
 - 29 April 2020 – 14 Inactive Duty Training (IDT) points, 15 membership points, and 15 Active Duty Training (ADT) points for a total of 44 creditable points
 - 29 April 2022 – 21 IDT points, 15 membership points, and zero active duty points for a total of 36 creditable points
- h. On 21 July 2024, the U.S. Army Human Resources Command notified the applicant of his eligibility for non-regular retired pay at age 60 for completing the required years of qualifying Reserve service.
- i. The applicant's Soldier Management Services - WEB Portal shows the applicant earned one paid retirement point for IDT on:
 - 18 October 2019
 - 11 January 2020
 - 17 July 2021
 - 11 September 2021
 - 6 November 2021
 - 11 December 2021

4. The applicant provides:

a. DA Form 1380 dated 23 August 2023 which shows the applicant performed duty for points only during the unit training assembly on:

- 18 October 2019 for 4-hours for one paid retirement point
- 19 October 2019 for 8-hours for two paid retirement points

The DA Form 1380 was digitally signed on 8 September 2023 by Captain (CPT) L- D-, the commander as the officer having knowledge of the duty performed.

b. DA Form 1380 dated 23 August 2023 which shows the applicant performed duty for points only during the unit training assembly on:

- 11 January 2020 for 4-hours for one paid retirement point
- 12 January 2020 for 8-hours for two paid retirement points

The DA Form 1380 was digitally signed on 8 September 2023 by CPT L- D-, the commander as the officer having knowledge of the duty performed.

c. DA Form 1380 dated 23 August 2023 which shows the applicant performed duty for points only during the unit training assembly on:

- 17 July 2021 for 4-hours for one paid retirement point
- 18 July 2021 for 8-hours for two paid retirement points

The DA Form 1380 was digitally signed on 8 September 2023 by CPT L- D-, the commander as the officer having knowledge of the duty performed.

d. DA Form 1380 dated 23 August 2023 which shows the applicant performed duty for points only during the unit training assembly on 11 September 2021 for 4-hours for one paid retirement point. The DA Form 1380 was digitally signed on 8 September 2023 by CPT L- D-, the commander as the officer having knowledge of the duty performed.

e. DA Form 1380 dated 23 August 2023 which shows the applicant performed duty for points only during the unit training assembly on:

- 6 November 2021 for 4-hours for one paid retirement point
- 7 November 2021 for 8-hours for two paid retirement points

The DA Form 1380 was digitally signed on 8 September 2023 by CPT L- D-, the commander as the officer having knowledge of the duty performed.

f. DA Form 1380 dated 23 August 2023 which shows the applicant performed duty for points only during the unit training assembly on:

- 11 December 2021 for 4-hours for one paid retirement point
- 12 December 2021 for 8-hours for two paid retirement points

The DA Form 1380 was digitally signed on 8 September 2023 by CPT L- D-, the commander as the officer having knowledge of the duty performed.

g. 331st Movement Control Team Memorandum, Subject: Letter of Lateness for Submission of DA Form 1380 (Points Only) for Sergeant (SGT) H-, J- (the applicant) which stated the applicant was coded "N" (non-paid) for IDT on the attendance roster for the unit's training assemblies due to his 100 percent VA disability. The unit failed to prepare the DA Forms 1380 for each unit training assembly which resulted in the applicant not being awarded the retirement points on his DA Form 5016.

5. On 24 July 2024, in the processing of this case, Headquarters, U.S. Army Reserve Command provided an advisory opinion regarding the applicant's request for the correction of his DA Form 5016. The advisory official recommended the applicant be granted full administrative relief. A review of his documents determined he should be awarded 16 points as his unit did not process the DA Forms 1380 in a timely manner. A favorable decision by the Board would allow the Readiness Division to make the appropriate updates.

6. On 26 July 2024, the Army Review Boards Agency, Case Management Division, provided the applicant the advisory opinion for review and comment. The applicant has not responded.

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 applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant contends he did not receive qualifying service credit for duty performed on 29 April 2020 and on 29 April 2022 due to administrative errors. The Board reviewed and agreed with the USARC advisory official's finding that the applicant should be awarded full administrative relief. A review of his documents determined he should be awarded 16 points based on Army Regulation 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records) as his unit did not process the DA Forms 1380 in a timely manner. The Board determined relief is warranted.

BOARD VOTE:

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| █ | █ | █ | 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 the Army records of the individual concerned be corrected by awarding the applicant 16 qualifying retirement points, based on submitted DA Forms 1380 on 29 April 2020 and on 29 April 2022, points only, provided all other criteria is met.

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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, 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 (AR) 140-1 (Mission, Organization, and Training), provides policy guidance on the mission, organization, and training of the U.S. Army Reserve (USAR).

a. Paragraph 3-11 (Equivalent Training (ET)), ET is performed in lieu of scheduled training (either Rescheduled Training (RST) or, Unit Training Assembly (UTA) or Multiple Unit Training Assembly (MUTA)). Pay or retirement point credit, or both is authorized. ET must be accomplished within 60-days after the training for which it is substituted, or by the end of the training year (fiscal year) if within 60-days of that date. An explanation of the circumstances will be included, with a statement that the ET, if granted, will not cause the Soldier to exceed the 48 paid unit assemblies for the fiscal year. a. ET is limited to Soldiers who have missed a UTA, MUTA, or RST due to unforeseen personal emergencies and desire to make it up. No more than 4 UTAs may be made up during a fiscal year. b. ET given will be the same type and quality as the training missed. It will be appropriate to, and enhance the ability of, Soldiers to carry out their assigned duties. For staff or support personnel, this may include duty which enhances unit training, management, or readiness. c. ET must be at least as long as the training missed. d. ET will not be granted for assemblies missed due to ADT.

b. Paragraph 3-14 (Additional Training Assemblies (ATAs)), ATAs may be used to conduct additional wartime or assigned mission training. An ATA will be a minimum of 4-hours. No more than 12 ATAs will be performed by any one individual per year.

3. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records), prescribes policy for U.S. Army Reserve (USAR) training and retirement point credit.

a. Paragraph 2-1 (Criteria for crediting retirement points), the limitations on the number of points which may be credited to a Soldier during a retirement year. Maximum-365 (366 during leap year) points. However, Annual or Terminal Statement of Retirement Points will report all points earned. Retirement points credited for activities other than active service or funeral honors may not exceed 130 retirement points for anniversary years closing on or after 30 October 2007. Inactive duty training (IDT) will be either 4-hours in length for one retirement point or 8-hours in length for two

retirement points, with the exception of the 2-hour IDT funeral honors duty.

b. Paragraph 2-2 (Criteria for earning retirement points) states retirement points may be earned by USAR Soldiers for active duty or duty in an active status for ADT, initial active duty for training (IADT), involuntary active duty for training (involuntary ADT), voluntary IDT, annual training (AT), IDT, membership points, and for other training of individual Soldier in a non-pay status.

c. Paragraph 2-4 (Criteria for awarding retirement points), personnel on AD, ADT, IADT, involuntary ADT, or AT are awarded 1 point for each calendar day they serve in one of these categories and may not be awarded additional points for other activities while in such status. Table 2-1 provides criteria for award of retirement points for IDT performed in accordance with AR 140-1 (unless another reference is cited). Most types of IDT are covered by one of the following rules on required duration of IDT and calendar day limitations on points. Soldiers are authorized a maximum of one medical and one dental physical health assessment for 4-hour periods per fiscal year unless follow-ups are authorized at the need of the Army due to further medical screening per AR 40-501.

- Four-hour rule; Soldiers earn one point for each scheduled 4-hour period of IDT at Battle Assembly, Rescheduled Training (RST), ET, or Additional Training Assemblies
- Four/eight-hour rule; Soldiers earn one point for each 4-hour or greater period, award of a second point in the same day requires additional hours to bring the day's total to a minimum of 8-hours for a maximum of two points in 1 calendar day

d. Table 2-1 (Award of IDT retirement points) rule 10; performs staff and administrative duties as additional training for points only in support of Troop Program Unit activities as a Selected Reserve Soldier may be awarded points under the 4-hour/8-hour rule except for UTA/MUTA, RST, ET, make up assemblies or ATA.

e. Paragraph 3-3 (DA Form 1380), DA Form 1380 will be prepared for a unit Soldier who performs ET or additional training with their unit subsequent to the scheduled BA. TPU units will retain one copy of the DA Form 1380 to post the appropriate entry into ADARS for the month's report and then place in the appropriate Army records information management system file. Non-paid DA Forms 1380 will not be entered into ADARS and will be forwarded to HRC for award of retirement points no later than the end of each duty month.

f. Table 3-1 provides that the code "N" will be entered for RST. The code "N" indicates the Soldier is entitled to retirement point credit only. The code "P" indicated the Soldier is entitled to retirement point credit and pay.

4. Department of Defense Instruction (DoDI) 1215.07 (Service Credit for Non-Regular Retirement) states inactive duty may be credited for each attendance at an inactive duty training period. A maximum of 2 retirement points for attendance at inactive duty training periods or equivalent training, in any 1 calendar day. The Service member's participation is without payment other than the pay to which the Service member is entitled as a Reserve Component member. Credit no more than one retirement point for fewer than 8-hours.

//NOTHING FOLLOWS//