

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 September 2024

DOCKET NUMBER: AR20230015301

APPLICANT REQUESTS: in effect, the “Disability retirement” entry listed on her Permanent Disability Retired List (PDRL) orders be corrected to reflect the total active duty retirement points reflected on her DA Form 5016, Chronological Statement of Retirement Points.

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

- 2-DD Forms 149, Application for Correction of Military Record
- DA Form 5016
- Orders 278-0009
- U.S. Army Human Resources Command (AHRC), Gray Area Retirements (GAR) Branch memorandum

FACTS:

1. The applicant states, in effect, that the “Disability retirement” service entry listed on her PDRL order is incorrect and is preventing her from applying for Concurrent Retirement and Disability Pay (CDRP) under Title 10, U.S. Code, section 1414. The service calculation on her PDRL orders does not match her DA Form 5016.
2. The applicant entered military service on 2 September 1988, serving in the U.S. Navy Reserve, United States Army Reserve (USAR), and Active Guard Reserve over her career. She was ordered to active duty on 1 August 2017 as a USAR officer.
3. She was retired due to permanent disability on 24 October 2022.
4. The applicant provides:
 - a. Orders 278-0009, 5 October 2022, published by AHRC, Fort Knox, KY that retired her due to disability effective 24 October 2022 and placed her on the permanent disability retired list the next day. contain the entry – “Disability Retirement: 8 years, 7 months, 23 days.”

b. A DA Form 5016, 4 August 2023, which shows she earned a total of 3036 active duty points.

c. A memorandum from the GAR Branch, AHRC 13 October 2023. This document informed the applicant that a review of her CRDP application revealed that there was an error with the order placing her on the PDRL and her DA Form 5016. Specifically, the PDRL order did not match the DA Form 5016. Therefore, the GAR Branch was not able to process his request for CRDP.

5. A review of the applicant's Soldier Management System record contains an email from the applicant which was sent to an AHRC civilian official. The applicant stated, in effect, that she needed her PDRL orders corrected to show she completed 8 years, 5 months, and 6 days of active duty service versus 8 years, 7 months, and 23 days. Her current DA Form 5016 reflects 3036 total active duty points. Calculated as follows:

- 3036 retirement points divided by 360 days = 8 years with a remainder of 156 points
- 156 points divided by 30 days = 5 months with a remainder of 6 points
- 6 points = 6 days
- Total service: 8 years, 5 months, and 6 days

6. The DA Form 5016 and the Reserve Retirement Repository are all valid sources for retirement service validation.

7. By regulation, the ABCMR will decide cases on the evidence of record. It is not an investigative body. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires. Additionally, applicants may be represented by counsel at their own expense.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation rising to the level that the applicant's retirement order may be in error, the Board concluded there was sufficient evidence warranting sending the applicant's record to HRC for review to determine whether the applicant's retirement order accurately reflects the total period of military service completed by the applicant.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
█	█	█	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be referred to the U.S. Army Human Resource Command for review to determine whether the applicant's retirement order accurately reflects the total military service of the applicant.
2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to correcting her retirement order without further review.

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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. Army Regulation (AR) 135-180, Army National Guard and Army Reserve-Retirement for Non-Regular Service, prescribes the policies and procedures governing non regular retirement. The DA Forms 5016, Chronological Statement of Retirement Points, NGB Forms 22, Report of Separation and Record of Service, and the Reserve Retirement Repository are all valid sources for retirement service validation. Soldiers who require assistance with this matter should initiate requests through their unit.

2. Title 10, U.S. Code, section 1405 – Years of Service.

a. 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 -

(1) his years of active service;

(2) the years of service, not included in clause (1), with which he was entitled to be credited on 31 May 1958, in computing his basic pay; and

(3) 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.

b. Fractional Years of Service. In determining a member's years of service under subsection -

(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as $\frac{1}{12}$ of a year; and

(2) any remaining fractional part of a month shall be disregarded.

3. AR 15-185, ABCMR, prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The ABCMR will decide cases on the evidence of record. It is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//