

IN THE CASE OF: ██████████

BOARD DATE: 1 August 2024

DOCKET NUMBER: AR20240000015

APPLICANT REQUESTS: reconsideration of her previous request to correct her disability retirement service credit to reflect 17 years and 6 months vice 3 years and 5 months.

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

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20220005194 on 23 March 2023

2. The applicant states that the retirement and separations department at the Physical Disability Agency states her disability retirement points equal 3 years and 5 months. However, her basic pay, covering all service regardless of branch of service, equals 17 years and 6 months. The Board's denial of her previous application has sent her into a deep depression as she has represented her country well during peace time as well as in echelon of war. She can state that she met with Master Sergeant ██████████ at Retirement Services prior to leaving the 9th Mission Support Unit and requested her to fix her retirement points as her active duty was not applied to the system. She noted she had completed the task, and my points were good to go.

a. As she (the applicant) went through the medical evaluation board, her physical evaluation board liaison officer (PEBLO) told her to complete the ABCMR application for correction. She completed it two days after her PEBLO told her, as the PEBLO yelled at her for not doing it the day before. She had sent it up through the system. She called the U.S. Army Human Resources Command (AHRC) continuously and her calls were answered by the front associates, and they would tell her all her papers were with groups throughout the AHRC. They would reassure her that everything was going well and AHRC would contact her if they needed something.

b. At this same time, the personnel (one shop) went through a program transition and that paperwork probably ended up somewhere in the old program. Not only did she

call AHRC relentlessly, but she also called the Defense Finance and Accounting Service (DFAS) relentlessly. They would tell her where the paperwork was at. If she had received the paperwork that was sent January or 2023, she would have responded to the requirements needed. She wants the Board to relook at my paperwork and send her any required paperwork that the Board may need. She has tried to do what she can to assist and has not tried to be a Soldier that required assistance.

3. Review of the applicant's service records shows:

a. The applicant was appointed a Reserve commissioned officer of the Army and executed an oath of office on 9 February 1996.

b. She served in a variety of stateside or overseas assignments, and was promoted to lieutenant colonel in August 2018: Her service included multiple periods of active duty as follows, based on her DD Forms 214 (Certificates of Release or Discharge from Active Duty):

- 20 April 2006-17 September 2007, 1 year 4 months, and 2 days of active service
- 9 June 2009-23 June 2010, 1 year and 15 days of active service
- 24 September 2012-23 September 2013, 1 year of active service
- 14 September 2015-15 June 2022, 6 years, 9 months, and 12 days of active service

c. On 29 March 2018, the U.S. Army Human Resources Command (AHRC) issued Memorandum for Notification of Eligibility for Retired Pay at Non-Regular Retirement (20-Year Letter).

d. On 9 March 2022, an informal physical evaluation board (IPEB) convened finding her physically unfit and recommended a rating of 30% with permanent disability. The applicant concurred with the findings and waived a formal hearing of her case.

e. On 11 May 2022, AHRC issued Orders Number 131-0005 for release of assignment and duty because of physical disability incurred while entitled to basic pay and under conditions that permit her retirement for permanent disability. The effective date of retirement was 15 June 2022 at 30% disability. The retirement orders show:

- Statute authorizing retirement: Title 10, U.S. Code, section 1201
- Other eligible laws: Title 10, U.S. Code, section 1372
- Retirement type and allotment code: PERM DISABILITY/11 Percent: 30
- Basic Pay: 26 years, 3 months, 17 days
- Disability retirement: 11 years, 2 months, 19 days
- Section 1405: 11 years, 2 months, 19 days

f. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she retired on 15 June 2022 for disability, permanent and she was placed on the retired list in her retired grade of LTC on 16 June 2022. Her DD Form 214 shows a total of 11 years, 2 months, and 19 days of active service as follows:

- Block 12s (Net Active Service This Period) 6 years, 9 months, and 2 days
- Block 12d (Total Prior Active Service) 4 years, 5 months, and 17 days

4. On 23 March 2023, the Board considered the applicant's case:

a. Prior to adjudicating her case, the U.S. Army Physical Disability Agency (USAPDA) legal advisor provided an advisory indicating that the applicant correctly notes that the Physical Disability Information Report (PDIR), dated 17 March 2022, reflects time calculated for disability retirement as 3 years, 5 months, 13 days. This does not capture all her active service time. However, the PDIR is not the only source of calculating service time. The applicant's DD Form 214 and retirement orders both capture the correct years of service. The DD Form 214 and retirement orders, dated 11 May 2022, are used to determine retirement pay calculation and other entitlements/benefits. As such, a change to the PDIR would be of no consequence and is therefore unnecessary. Although she is correct that the 17 March 2022 PDIR time is inaccurate, it is correctly stated on the subsequent DD Form 214 and retirement orders. The USAPDA therefore find her request to be legally insufficient.

b. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted. The Board concurred with the conclusion of the advisory official that, while there is an error on a form related to her processing for disability retirement, this is a harmless error that does not negatively impact her in any way. The Board determined correction of the PDIR is not warranted.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The Board noted that the Physical Disability Information Report (PDIR), dated 17 March 2022, reflects an incorrect time calculation. However, this PDIR form is not the source utilized for calculating service time. The applicant's DD Form 214 and retirement orders both capture the correct years of service and are being used for DFAS for calculating the applicant's service time. The DD Form 214 and retirement orders are used to determine retirement pay calculation and other entitlements/benefits. The Board agreed that while there is an error on a form related to her processing for disability retirement,

this is a harmless error that does not negatively impact her in any way. The Board determined correction of the PDIR is not warranted.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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 to amend the decision of the ABCMR set forth in Docket Number AR20220005194 on 23 March 2023

X [Redacted Signature]

CHAIRPERSON

[Redacted Name]

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:

Title 10, United States Code, 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—(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.

//NOTHING FOLLOWS//