

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 October 2024

DOCKET NUMBER: AR20240000806

APPLICANT REQUESTS: in effect, correction of her Permanent Disability Retirement List Orders Number C-03-891770, 3 March 2018 to have her total service match that of her DA Form 5016 (Chronological Statement of Retirement Points), 12 July 2023, so that she can receive Concurrent Retirement Disability Pay (CRDP).

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum, subject: Notification of Eligibility for Retired Pay at Age 60 (Twenty Year Letter), 21 October 2010
- Orders Number C-03-891770, 3 March 2018
- Department of Veterans Affairs (VA) letter, 26 June 2023
- DA Form 5016 (Chronological Statement of Retirement Points), 12 July 2023
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 22 May 2018

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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 a correction needs to be made to her records; this is in regard to her application for CRDP, 23 October 2023. She sought to resolve the issue with Fort McCoy Retirement Branch. No resolution has been made at this time. A review of her CRDP application revealed that there is an error with the Order placing her on the PDRL and her DA Form 5016. The 1405 service calculation on Order Number C-03-891770, does not match the total points for retired pay on the DA Form 5016. The letter recommended that she apply to the ABCMR to make the necessary corrections to the Order, to match the total points for retired pay as shown on the DA Form 5016. She will have to do this in order to become eligible to receive CRDP.

3. The applicant provides the following:

a. A Notification of Eligibility for Retired Pay at age 60 (Twenty-Year letter), 21 October 2010.

b. Orders Number C-03-891770, issued by U. S. Human Resources Command (HRC), 3 March 2018, which shows in part:

- Effective Date of Separation: 22 May 2018
- Disability Retirement: 17 years, 6 months, and 2 days
- Basic Pay: 29 years, 8 months and 10 days
- Section 1405 Service: 19 years, 9 months and 12 days

c. A DA Form 5016 12 July 2023, for the period 12 March 1982 to 23 May 2018 shows:

- Total Inactive Duty Points: 503
- Total Membership Points: 426
- Total Active-Duty Points: 6427
- Total Qualifying Years for Retirement: 28 years, 8 months and 13 days
- Total Creditable Points: 7241

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

a. The applicant enlisted in the U.S. Army National Guard on 13 March 1982.

b. DD Form 214 for the period ending 10 August 1983 shows she was honorably released from active duty for training (ADT). This document shows she completed 5 months, and 10 days of net active service this period, with 22 days of total prior active service and 10 months and 22 days of total prior inactive service.

c. DD Form 214 for the period ending 26 May 1988 shows she was discharged under honorable conditions from active duty. This document shows she completed 1 year, 3 months, and 7 days of net active service this period, with 6 months, and 2 days of total prior active service and 4 years, 3 months and 4 days of total prior inactive service.

d. DD Form 214 for the period ending 29 September 1999 shows she was honorably released from active duty. This document shows she completed 4 months, and 27 days of net active service this period, with 1 year, 3 months, and 7 days of total prior active service and 9 years, 5 months and 19 days of total prior inactive service.

e. DD Form 214 for the period ending 29 September 2000 shows she was honorably released from active duty. This document shows she completed 4 months, and 22 days of net active service this period, with 1 year, 7 months, and 7 days of total prior active service and 10 years, 2 months and 24 days of total prior inactive service.

f. DD Form 214 for the period ending 11 February 2002 shows she was honorably released from active duty. This document shows she completed 8 months and 29 days of net active service this period; there are no entries for total prior active service days or total prior inactive service.

g. DD Form 214 for the period ending 3 December 2006 shows she was honorably released from active duty. This document shows she completed 3 months, and 3 days of net active service this period, with 6 years, 2 months, and 17 days of total prior active service and 11 years, 9 months and 1 day of total prior inactive service.

h. DD Form 214 for the period ending 23 January 2007 shows she was honorably discharged from active duty. This document shows she completed 1 month, and 18 days of net active service this period, with 6 years, and 3 days of total prior active service and 12 years, 2 months, and 20 days of total prior inactive service.

i. DD Form 214 for the period ending 1 June 2007 shows she was honorably discharged from active duty. This document shows she completed 1 year, 3 months, and 24 days of net active service this period, with 3 years, 11 months and 28 days of total prior active service and 3 years, 10 months, and 15 days of total prior inactive service.

j. DD Form 214 for the period ending 3 July 2007 shows she was honorably released from ADT. This document shows she completed 4 months, and 9 days of net active service this period; the entry for total prior active service and total prior inactive service shows DD Form 215 (Correction to DD Form 214) will be issued to provide missing information.

k. DD Form 214 for the period ending 22 May 2018 shows she was honorably retired from active-duty service and transferred to the U.S. Army Reserve Control Group (Retired). This document shows she completed 10 years, 8 months, and 26 days of net active service this period, with 6 years, 9 months, and 6 days of total prior active service and 12 years, 2 months and 8 days of total prior inactive service.

l. HRC letter, 23 October 2023, shows a response to the applicant's request for CDRP under Title 10, U.S.C., Section 1414, which states:

- (1) A review of his CRDP application revealed that there is an error with the order placing him (sic) on the PDRL and her Chronological Statement of Retirement

Points. The 1405 service calculation on his (sic) PDRL order does not match the total points for retired pay on his (sic) (DA Form 5016, NGB23). Therefore, the Gray Area Retirements Branch (GAR) is not able to process her request for CRDP.

(2) The GAR recommends that he apply to the ABCMR to make the necessary corrections to his (sic) PDRL order to match her total points for retired pay as shown on her (DA Form 5016, NGB23) so that she may be eligible to receive CRDP.

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. Upon review of the applicant's petition and available military records, the Board determined the applicant's request to correct her Permanent Disability Retirement List (PDRL) Orders Number C-03-891770, dated 3 March 2018, to reflect her total service as documented on her DA Form 5016 is warranted. The Board agreed the applicant provided sufficient evidence to support eligibility for Concurrent Retirement and Disability Pay (CRDP), as outlined in her application dated 23 October 2023.

2. The Board noted the applicant's 1405 service calculation listed in her PDRL orders does not match the total retirement points reflected on her DA Form 5016. The applicant sought resolution through the Fort McCoy Retirement Branch, but no corrective action was been taken to date. A review of her CRDP application and supporting documentation confirms a discrepancy between the service credit listed in her retirement orders and the total creditable service shown on her DA Form 5016. The Board found after a comprehensive review of the applicant's DD Forms 214, it supports the accuracy of the DA Form 5016 and confirms extensive active and inactive service spanning from 13 March 1982 to 22 May 2018. The discrepancy in the 1405 service calculation directly impacts her eligibility for CRDP under Title 10, U.S.C., Section 1414. The Board concurs with the recommendation from the Gray Area Retirements Branch (GAR) that the applicant's PDRL orders should be corrected to reflect the total points for retired pay as shown on her DA Form 5016. This correction will enable the applicant to meet the eligibility criteria for CRDP. As such, relief is granted.

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 the Army records of the individual concerned be corrected to show the applicant's Permanent Disability Retirement List Orders Number C-03-891770, dated 3 March 2018 to reflect her total service as documented on her DA Form 5016, specifically updating the Section 1405 service to match the total creditable retirement points.

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, U.S. Code, 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. According to the official DFAS website; Eligibility (of Retirees Who Are Entitled to Retired Pay Due to Retirement Under Chapter 61 for Disability): To be eligible to receive both military disability retired pay and VA Disability Compensation concurrently,

a member who was retired under Chapter 61 for disability must:

- Have completed 20 years or more of service creditable under 10 U.S.C. § 1405, or 20 years of service computed under 10 U.S.C. § 12732, at the time of the retirement; and
- Be entitled for any month to both military disability retired pay and VA Disability Compensation; and
- Have a service-connected disability (or combination of service-connected disabilities) that is rated by the Secretary of Veterans Affairs as not less than 50 percent disabling on the VA schedule for rating disabilities.

3. Title 10 U.S. Code Section 1414 - Members eligible for retired pay who are also eligible for Veterans' disability compensation for disabilities rated 50 percent or higher: concurrent payment of retired pay and Veterans' disability compensation.

//NOTHING FOLLOWS//