

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 October 2024

DOCKET NUMBER: AR20240000807

APPLICANT REQUESTS:

- correction of his U.S. Army Reserve (USAR) discharge orders and DD Form 214 (Certificate of Release or Discharge from Active Duty) to show he was transferred to the Retired Reserve instead of discharged
- update of his DA Form 1506 (Statement of Service for Computation of Length of Service for Pay Purposes) and DA Form 5016 (Chronological Statement of Retirement Points)
- personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Notification of Eligibility for Retired Pay at Non-Regular Retirement (20-Year Letter)
- DA Form 1506, 13 November 2015
- DA Form 5016, 3 November 2020
- U.S. Army Human Resources Command (AHCR) Orders Number 035-0003, 4 February 2021 (USAR discharge orders)
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period 28 February 2013 to 8 February 2021

FACTS:

1. The applicant states:

a. He is eligible for transfer to the Retired Reserve because he completed 20 years of qualifying Reserve service. When he was separated on 8 February 2021, he was disputing the separation due to a perceived injustice. That matter was presented to this Board where it was denied (Army Board for Correction of Military Records (ABCMR) Docket Number AR20220004981). During his transition process, he attended the Transition Assistance Program, and it was not until later that he received guidance that he should have attended the U.S. Army Reserve (USAR) pre-retirement briefing and process. After the denial, he contacted AHRC to request transfer to the Retired Reserve

and he was notified that because he is no longer in the service, his request should be routed to the ABCMR.

b. He joined the service on 7 July 2000. He received his 20-Year Letter on 9 July 2020 and he was discharged on 8 February 2021. During this timeframe, he spent various periods of active and inactive service. His DA Form 1506 and DA Form 5016 reflect those periods and points up until the year 2020. He is requesting update of these forms to reflect his entire service periods.

c. Upon eligibility to receive retirement pay, guidance listed on the AHRC website includes, completing a DD Form 108 (Application for Retired Pay Benefits) and DD Form 2656 (Data for Payment of Retired Personnel) along with submitting supporting documentation such as the chronological points statement, separation orders, and DD Forms 214. Having accurate documentation will prevent errors and delays in the future due to the amount of time he has until he is eligible for retired pay. Additionally, he is seeking to obtain other benefits he is eligible for such as a retiree identification card and commissary privileges.

2. The applicant is requesting update of his DA Form 1506 and DA Form 5016. The update of these forms is a function of AHRC. There is no evidence indicating the applicant requested the update of these forms to AHRC and his request was subsequently denied. Army Regulation 15-185 (ABCMR), the regulation under which this Board operates, provides in paragraph 2-5 the ABCMR will not consider an application until the applicant has exhausted all administrative remedies to correct the alleged error or injustice. Therefore, the portion of the applicant's request that pertains to the update of these forms will not be discussed further in the Record of Proceedings.

3. The applicant's enlistment document shows he enlisted in the USAR on 7 June 2000. He entered active duty in Active Guard Reserve status on 28 February 2013.

4. The applicant's Notification of Eligibility for Retired Pay at Non-Regular Retirement (20-Year Letter) is dated 9 July 2020. This letter notified him that having completed the required years of qualifying Reserve service, he is eligible for retired pay upon application at age 60.

5. On 4 February 2021, AHCR published Orders Number 035-0003 directing the applicant's discharge from the USAR effective 8 February 2021.

Note: A Soldier who has achieved eligibility for a non-regular retirement and elects to be discharged over transferring to the Retired Reserve, loses out on the cost of living adjustments from the date they are discharge until reaching age 60. Meaning that retired pay at age 60 will be calculated based on the pay rates in effect at the time of discharge.

6. The applicant's DD Form 214 shows he was honorably discharged on 8 February 2021 under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), chapter 4, by reason of completion of required active service.

7. The applicant's DA 5016, dated 16 October 2024, obtained from the AHRC Soldier Management Services, shows an ending date of 7 February 2021. It also shows he was credited with 20 years, 8 months, and 3 days of qualifying service for retirement.

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 there is sufficient evidence to support the applicant's request for correction of his U.S. Army Reserve (USAR) discharge orders and DD Form 214. The Board found the applicant was credited with 20 years, 8 months, and 3 days of qualifying service for retirement. As such, the Board agreed, correction of the applicant's record is warranted to reflect correction of his U.S. Army Reserve (USAR) discharge orders and DD Form 214 to show he was transferred to the Retired Reserve instead of discharged.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	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 showing on his U.S. Army Reserve (USAR) discharge orders, dated 4 February 2021 that the applicant was transferred to the Retired Reserve and show his DD Form 214 for the period ending 8 February 2021 in item 8 (Command to Which Transferred) as Retired Reserves.



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 140-10 (Army Reserve Assignments, Attachments, Details, and Transfers) states in:
 - a. Paragraph 2-3 (Retired Reserve), Soldiers who have completed 20 or more qualifying years of service for non-regular retirement can elect to transfer to the Retired Reserve.
 - b. Chapter 6 (Transfer to and from the Retired Reserve), assignment to the Retired Reserve is authorized if the Soldier have completed 20 qualifying years of service and is eligible to receive Notification of Eligibility for Retired Pay at Non-Regular Retirement (20-Year Letter).
3. Army Regulation 15-185 (ABCMR) provides Department of the Army policy, criteria, and administrative instructions regarding an applicant's request for the correction of a military record. Paragraph 2-11 states 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.

//NOTHING FOLLOWS//