

IN THE CASE OF: ██████████

BOARD DATE: 15 February 2024

DOCKET NUMBER: AR20240001418

APPLICANT REQUESTS: payment for Reserve duty and points earned for duty performed 31 August 2015 to 4 September 2015.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
Not Applicable

ADDITIONAL FACTS: On 29 March 2023, the applicant's case was adjudicated by the Board. However, the applicant submitted two DD Forms (Application for Correction of Military Record) and the two DD Forms 149 were merged to create one case. On 23 January 2023, the U.S. Army Human Resources Command (HRC) provided an advisory opinion stating Orders Number 001119, dated 2 May 2022, shows the applicant was ordered to active duty for the period 27-30 July 2015. Veterans Inquiry Branch could issue active duty points if the Defense Finance and Accounting Service (DFAS) pays the applicant for the days and the Leave and Earnings Statement is provided to that office. On 15 February 2023, HRC provided an additional advisory opinion stating Orders Number 200001, dated 19 July 2022, shows the applicant was ordered to active duty for the period 31 August 2015 to 4 September 2015. If the payment for five active duty days are approved and paid by DFAS, HRC will add five active days to his DA Form 5016 (Chronological Statement of Retirement Points). The Board only rendered a decision for payment of Reserve duty when the applicant was ordered to active duty for the period 27-30 July 2015. The Board did not address/correct the additional period of 31 August 2015 to 4 September 2015 in Docket Number AR2022006963, dated 29 March 2023.

ADDITIONAL BOARD DISCUSSION:

1. At the time of the decision of the ABCMR in Docket Number AR20220006963, dated 29 March 2023, it was the intent of the ABCMR to make the applicant's record as administratively correct as it should properly have been at the time.
2. The ABCMR's decision in Docket Number AR20220006963 was arrived at without consideration of the additional advisory opinion provided by HRC above.

3. After reviewing the application, all previously provided supporting documents, and all additional supporting documents, the Board found the relief is warranted. The Board determined the applicant should be paid for and receive retirement point credit for duty performed from 31 August 2015 to 4 September 2015.

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 by showing he is authorized pay and retirement points for duty performed from 31 August 2015 to 4 September 2015.

2/27/2024

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CHAIRPERSON

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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 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records) contains Army policy for USAR training and retirement point credit.

a. Paragraph 1–6 (Eligibility) provides that retirement point credit is authorized for—

(1) Reserve Component (RC) in active Service Ready Reserve (RR).

(2) RC in an active status as defined in Title 10, USC, section 10141. This includes Servicemembers in a Delayed Entry Program (DEP) established by Title 10, USC, section 513. This service is credited toward non-regular retirement since it is service in an active status as a member of the Ready Reserve (RR).

(3) Members of the RC in a retired status, other than members who have retired from active service, or members transferred to the Retired Reserve under the conditions described in Title 10, USC, section 12734, who are ordered to perform active duty in accordance with Title 10, USC, section 12741.

b. Retirement point credit is not authorized for –

(1) Members of the RC in an inactive status under Title 10, USC, section 10152 pursuant to Title 10, USC, section 12734(a).

(2) Members who have completed the service requirement for retired pay and are not 60 years old who are transferred to an inactive status (Retired Reserve).

c. Paragraph 2-4 (Criteria for crediting retirement points) provides that personnel on active duty, Active Duty Training (ADT), Inactive Duty Training (IADT), involuntary ADT, or Annual Training (AT) are awarded one 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 2–3 provides criteria for award of retirement points for IDT performed in accordance with Department of Defense Instruction (DODI) 1215.07 and 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. A maximum of two retirement points may be credited for attendance at unit Battle

Assembly or Inactive Duty Training (IDT) in any 1 calendar day. IDT will be either 4 hours in length for one retirement point or 8 hours in length for two retirement points.

d. Table 2–3 (Award of IDT retirement points), Rule 20 provides that, when the individual assigned/attached Soldier performs other individual IDT duty in a non-pay training status and is authorized under AR 140-1, then the individual will be awarded points under the 4-hour/8-hour rule.

3. Title 31, USC, section 3702, also known as the Barring Statute, prohibits the payment of a claim against the Government unless the claim has been received by the Comptroller General within 6 years after the claim accrues. Among the important public policy considerations behind statutes of limitations, including the 6-year limitation for filing claims contained in this section of Title 31, U.S. Code, is relieving the Government of the need to retain, access, and review old records for the purpose of settling stale claims, which are often difficult to prove or disprove.

//NOTHING FOLLOWS//