

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 December 2024

DOCKET NUMBER: AR20240002127

APPLICANT REQUESTS:

- Correction of his DA Form 5016 (Retirement Accounting Statement) to reflect he was awarded retirement points for duty and training for Retirement Years Ending (RYE) 20 December 2016 and 13 November 2022.
- A personal Appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum for Record (MFR), Subject: MAJ Lxxx Bxxx Point Discrepancies
- Email Correspondence
- Leave and Earnings Statement (LES), 15 March 2023
- Seven DA Forms 1380 (Record of Individual Performance of Reserve Duty Training)
- Email, Subject: ARW-004
- LES, 1 May 2023
- Email, Subject: ARW-011 P4 Return regarding the applicant
- Two Memorandums, Subject: 1380 Letter of Lateness
- Two USAR Forms 26-R (Pay Document – Transmittal Letter)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 he is requesting for his retirement points be added to accurately account for his service. He states the late submissions of his DA Forms 1380 are a result of heavy leadership and S1 turnover during the covered periods and is no fault of his own.
3. A review of the applicant's service record shows:

- a. On 21 December 2000, the applicant was appointed as a Reserve commissioned officer and executed an oath of office.
- b. DD Form 214 (Certificate of Release or Discharge from Active Duty), ending 30 September 2012, shows he was honorably released from active duty and completed 1 year, 8 months, and 26 days of active service this period.
- c. DA Form 5016 generated on 22 July 2024 shows:
  - for the RYE 20 December 2016, the applicant earned 29 Inactive Duty Training (IDT) points, 15 membership points, and 12 Active Duty Training (ADT) points, totaling 56 total points creditable
  - for the RYE on 13 November 2022, the applicant earned 15 IDT points, 13 membership points, and 0 ADT points, totaling 28 total points creditable
  - for the RYE on 20 December 2022, the applicant earned 23 IDT points, 2 membership points, and 0 ADT points, totaling 25 total points creditable
  - at the time the applicant completed 17 years of qualifying service for retirement

4. The applicant provides:

- a. MFR dated 31 January 2024, that states the applicant did not receive credit for duty performed on 5 October 2022, 26 September 2023, and 29 September 2023.
- b. Email between the applicant's chain of command and a supervisory military pay analyst that discusses his missing points, as his DA Forms 1380 were not processed.
- c. Two LES printouts from 15 March and 1 May 2023 that show the dates he was credited for inactive duty training (7, 12, 13 May 2022 and 13, 14, and 26 July 2022).
- d. Seven DA Forms 1380 that show the applicant completed training/duty on the following dates:
  - 9 – 11 December 2016; 24 hours; 6 retirement points
  - 8 January, 5 February, 10 March, 30 March, and 28 April 2022; 20 hours, 5 retirement points
  - 7 May, 12 May, 13 May, 20 May, and 26 May 2022; 20 hours, 5 retirement points
  - 8 July, 13 July, 14 July, and 26 July 2022; 16 hours, 4 retirement points
  - 5 October 2022; 4 hours, 1 retirement point
  - 10 May, 23 June, 17 August, 23 – 25 August, 31 August, 6 September, 21 September, 26 September, 29 September, and 24 October 2023; 60 hours, 15 retirement points

- e. Two USAR Forms 26-R that show the following were submitted for processing:
    - (1) ARW-004: A letter of lateness along with a DA Form 1380 for the months of January, February, and March 2022
    - (2) ARW-010: A letter of lateness, DA Form 1380, and supporting documentation
  - f. Email, Subject: ARW-004 and ARW -011 wherein guidance was provided pertaining to the processing of the applicant's DA Forms 1380.
5. On 17 September 2024, Headquarters, U.S. Army Human Resources Command, (AHRC) Chief, Personnel Services Division, provided an advisory opinion pertaining to the accreditation of retirement points for duty performed December 2016, January through July 2022, and May through December 2023.
- a. AHRC reviewed the application. A review of the enclosed DA Forms 1380 determined that all retirement points are recorded on the applicant's retirement point accounting statement, except 5 October 2022, and 26 and 29 September 2023. DA Form 1380 for duty performed on 5 October 2022, was returned without action from the Individual Mobilization Augmentee (IMA) pay processing team as all IMA Soldiers must have an Exception to Policy (ETP) to perform duty within the first 10 days of any new Fiscal Year, and he did not have an ETP. The applicant has submitted multiple DA Forms 1380 for duty performed 26 and 29 September, one for pay and one for points only.
  - b. The DA Form 1380 for 26 and 29 September duty performance needed to be prepared or submitted according to Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records), Chapter 2. The DA Form 1380 for 5 October 2022, cannot be processed for retirement points because the Soldier needs an ETP approval from the Command to perform duty. This office cannot award retirement points without direction from the Army Review Boards Agency. The applicant's DA Form 5016 reflects 17 creditable years and 2102 creditable points.
6. On 24 September 2024, the applicant was provided with a copy of the advisory opinion for comment or rebuttal. He did not provide a response.

#### BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the DA Form 1380s submitted for relief showing an appropriate unit representative approved the military duty of the

applicant and the justification outlined in the HRC advisory opinion for denying the relief, the Board concluded there was sufficient evidence to award retirement points to the applicant for duty performed on 5 October 2022, 26 September 2022 and 29 September 2022, as outlined in the submitted and approved DA Form 1380s.

BOARD VOTE:

Mbr 1   Mbr 2   Mbr 3

:   :   :   GRANT FULL RELIEF

[REDACTED]   [REDACTED]   [REDACTED]   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 corrected by awarding retirement points for military duty performed by the applicant outlined on the submitted and approved DA Form 1380s for the dates 15 October 2022, 26 September 2022 and 29 September 2022.
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 other dates of military duty as a result of HRC stating those points have already been awarded.

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. AR 15-185 (Army Board for Correction of Military Records) 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, which is that what the Army did was correct.
  - a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.
  - b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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.
3. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records), paragraph 3-3 (DA Form 1380) provides that the DA Form 1380 is utilized to record IDT performed by non-unit Soldiers under the jurisdiction of HRC who are attached for retirement points only to USAR Troop Program Units, Army National Guard units, or to another service or component for training. Only attached Soldiers are authorized to perform IDT with the exception of one annual physical health assessment each for medical and dental readiness when authorized by the command prior to the event.
  - a. Nonpaid DA Forms 1380 will not be entered into ADARS and will be forwarded to AHRC for award of retirement points no later than the end of each duty month.
  - b. With regard to awarding of retirement points for IDT (Four-Hour Rule), Service Members will be awarded one point for each 4-hour period of IDT duty performed. Maximum of two points per calendar day applies to IDT duty. Duty must be 8 hours in duration to receive two points per day.

//NOTHING FOLLOWS//