

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 November 2024

DOCKET NUMBER: AR20240002682

APPLICANT REQUESTS:

- amendment of her transfer to the U.S. Army Reserve (USAR) Control Group (Retired Reserve) to 30 June 2023
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored statement
- U.S. Army Human Resources Command (AHRC) Memorandum, Subject: Notification of Eligibility for Retired Pay at Non-Regular Retirement (20-Year Letter)
- Email traffic regarding initiation of retirement
- Email traffic regard retirement point credit
- Email traffic regarding forms
- Email traffic regarding DA Form 1380 (Record of Individual Performance of Reserve Duty Training)
- Email traffic regarding Reserve Component Survivor Benefits Program (RCSBP)
- Email traffic regarding retirement and Mandatory Removal Date (MRD)
- Email traffic regarding records review
- U.S. Department of Veterans Affairs Post 9/11 GI Bill Statement of Benefits
- Request for retirement
- 7458th USAR Medical Operational Readiness Unit (MORU) Orders Number 6422556
- AHRC Orders Number C12-396591
- DA Form 1559 (Inspector General (IG) Action Request)
- Email traffic regarding retirement packet

FACTS:

1. The applicant states she has lost 5 months of retired pay with the current effective date of 24 November 2023. She submitted her request to be assigned to the USAR

Control Group (Retired Reserve) in a timely manner. However, due to improper handling of her packet through her chain of command, by the time her request was processed she had passed her MRD and the Integrated Personnel and Pay System - Army (IPPS-A) would not allow the order to be published until her end date was adjusted past the date when the order was going to be published.

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

a. Having prior enlisted USAR service, on 13 May 1984, the applicant executed her oath of office and was appointed as a Reserve commissioned officer.

b. Automated Record Brief shows the applicant's MRD was 30 June 2023, and her date of birth is 16 Juxx 196X.

c. During the applicant's service she was ordered to active duty for:

- Army Medical Department (AMEDD) Officer Basic Course in 1985
- AMEDD Officer Advance Course in 1989
- active duty for training in 1990
- support of Operation Enduring Freedom in 2011 and 2016

d. On 9 April 1991, Orders Number 31-3 issued by Headquarters, 807th Medical Brigade, the applicant was assigned to the USAR Control Group (Reinforcement), effective 1 October 1990.

e. The applicant's service record is void of evidence of her assignment to the USAR Control Group (Annual Training). On 30 May 1991, Orders Number C-05-017122, issued by the USAR Personnel Center, the applicant was assigned to the USAR Control Group (Reinforcement), effective 31 May 1991.

f. On 4 October 1993, the applicant executed her oath of office and was appointed as a Reserve commissioned officer in the rank of first lieutenant (1LT)/O-2.

g. On 10 August 2009, the applicant executed her oath of office and was appointed as a Reserve commissioned officer in the rank of captain (CPT)/O-3.

h. On 28 January 2010, Orders Number C-01-001334, issued by AHRC, the applicant was appointed in the USAR and assigned to a USAR Troop Program Unit, effective 10 August 2009.

i. On 16 June 2023, the applicant turned age 60.

j. On 30 June 2023, the applicant reached her MRD.

k. On 30 October 2023, Orders Number 6422556, issued by the 7458th MORU, the applicant was assigned to the Assistant Chief Nurse position, effective 5 June 2023 with an end date of 23 November 2023.

l. On 2 November 2023, Orders Number 6469588, issued by the 7458th MORU, the applicant was assigned to the USAR Control Group (Retired Reserve), effective 24 November 2023 for mandatory retirement with 23-years of service.

m. On 15 December 2023, Orders Number C12-396591, issued by AHRC, the applicant was placed on the Retired List, effective 25 November 2023.

n. DA Form 5016 (Retirement Accounting Statement) dated 22 March 2024 shows the applicant last obtained retirement points for 29-days of active duty for training during the period of 30 April through 28 May 2023.

3. The applicant provides:

a. AHRC Memorandum, Subject: Notification of Eligibility for Retired Pay at Non-Regular Retirement (20-Year Letter), dated 12 September 2019, which notified the applicant she completed the required years of qualifying Reserve service for eligibility for retired pay at age 60.

b. Email traffic dated 13 August 2022; the applicant inquired with her unit about the initiation of her request for retirement as her MRD was in less than 1-year on 30 June 2023.

c. Email traffic dated 25 August 2022; the applicant requested assistance in obtaining retirement point credit for duty performed and she also inquired what she needed to initiate a request for retirement.

d. Email traffic dated 27 August 2022; where the unit provided the applicant the required documents to apply for retired pay.

e. Email traffic dated 5 September 2022; where the applicant submitted a DA Form 1380 for her attendance at the 81st Readiness Division pre-retirement briefing.

f. Email traffic dated 14 September 2022; where the applicant inquired how to update her DD Form 2656-5 (RCSBP) Election Certificate). Her unit advised her to inquire at a retirement briefing.

g. Email traffic between the period of 3 through 10 January 2023; where the applicant inquired if her unit initiated her request for retirement. Her unit requested her DA Form 5016 and notification of eligibility for retired pay at age 60.

h. Email pertaining to signing an updated personnel records review.

i. Post 9/11 GI Bill statement of benefits showing her eligibility percentage as 40 percent.

j. Request for retirement packet shows the applicant's request for retirement was initiated on 8 May 2023 which was completed for a voluntary retirement. On 22 September 2023, a request for MRD retirement was generated. However, the documents were not signed by her unit. On the DA Form 4187 (Personnel Action) shows the applicant requested a retirement date of 30 June 2023 which was signed by her on 8 May 2023.

k. DA Form 1559 dated 27 December 2023, shows the applicant requested assistance from the AHRC IG regarding not receiving retired pay at her MRD of 30 June 2023 instead of 25 November 2023 due to improper processing of her request for retirement. The IG office responded on 29 January 2024 stating the information provided by the AHRC Gray Area Retirement (GAR) Branch, the applicant's points did not match her MRD because she continued to serve passed age 60. There records shows she was on orders until 23 November 2023. Also, as a medical officer, she could serve passed age 60, which she chose to do.

l. Various emails showing the applicant requesting a status of her request for retirement beginning on 19 June 2023. Finally, on 27 October 2023, she was informed her request for retirement was submitted to AHRC; however, the end date of her unit assignment needed to be adjusted before for her assignment to the USAR Control Group (Retired Reserve) orders could be published.

4. On 4 August 2024, in the processing of this case, AHRC, provided an advisory opinion regarding the applicant's request for the amendment of her transfer to the USAR Control Group (Retired Reserve) Orders to be to her anniversary date of age 60. The advisory official stated upon review of the applicant's service record by the GAR, it was determined the applicant was transferred to the USAR Control Group (Retired Reserve) effective 24 November 2023 and placed on the Retired List the following day, 25 November 2023, which was passed her 60th birthday. She should have been transferred to the USAR Control Group (Retired Reserve) before her 60th birthday, which was 16 June 2023 and then the GAR could have placed her on the retired list on that date. Therefore, the applicant's last unit of assignment will need to amend her transfer to the USAR Control Group (Retired Reserve) orders to the day prior to her 60th birthday for the GAR to change the date she was placed on the Retired List.

5. On 8 August 2024, the Army Review Boards Agency Case Management Division provided the applicant the advisory opinion for review and comment.

6. On 19 August 2024, the applicant responded and commented she agreed with the advisory opinion which stated her previous unit of assignment needed to amend her order which placed her in the USAR Control Group (Retired Reserve). The amendment would in turn provide for the ability for her to restore her eligibility for 5-months more retirement pay.

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 review based on law, policy, and regulation. The Board reviewed the advisory from the U.S. Army Human Resources Command and found the applicant The applicant's Active Guard Reserve orders were amended and concurred she should have been transferred to the USAR Control Group (Retired Reserve) before her 60th birthday, which was 16 June 2023 and then the GAR could have placed her on the retired list on that date. However, the advising official determined the applicant's last unit of assignment needed to amend her transfer to the USAR Control Group (Retired Reserve) orders to the day prior to her 60th birthday for the GAR to change the date she was placed on the Retired List and the Board concluded the applicant's request for the amendment of her transfer to the USAR Control Group (Retired Reserve) Orders to be to her anniversary date of age 60 should be completed by this Board, therefore the Board granted relief.

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

■	■	■	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:

- amending Order 0006469588.00, Department of the Army, dated 2 November 2023, to show an effective date of 16 June 2023
- entitlement to back pay and allowances as a result of this correction

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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. Army Regulation (AR) 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. 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.

2. Army Regulation 140-10 (Army Reserve Assignments, Attachments, Details and Transfers), prescribes policies, responsibilities, and procedures to assign, attach, detail, remove, or transfer U.S. Army Reserve (USAR) Soldiers.

a. Paragraph 1–7 (Orders), assignment, reassignment, transfer, and attachment will be announced in written orders. The order will include the paragraph and subparagraph, if applicable, of the regulation authorizing the action. Subparagraph d. Each assignment authority is responsible to verify Soldiers' (officer and enlisted) mandatory removal date (MRD) for age or years of service and/or Soldiers' expiration term of service (ETS), annotate the MRD/ETS in the remarks section with the following statement: "The MRD/ETS was verified by the assignment approval authority prior to issuance of these orders" with the exception of reassignment to Retired Reserve or discharge. Soldiers past their MRD/ETS will not be reassigned until MRD/ETS is extended/adjusted by proper authority.

b. Paragraph 7-3 (Maximum Age), Soldiers will be transferred to the Retired Reserve, if eligible, unless discharge is requested. Soldiers not sooner removed for another reason will be removed when they reach maximum age. Removal date will be the last day in which they reach the age states. Age 60 for field grade officers. Commissioned officer, excluding warrant officers may request exceptions to the regulatory removal requirement of age 60 submitted through the officer's chain of command for approval.

c. Paragraph 7-16 prescribes the exceptions to removal of Army Medical Department (AMEDD) branch officer for length of service and maximum age.

3. Title 10 United States Code (USC), section 14515 (Discharge or retirement for age), each reserve officer of the Army who is in an active status or on an inactive-status list and who reaches the maximum age shall (unless the officer is sooner separated or the officer's separation is deferred or the officer is continued in an active status under another provision of law) not later than the last day of the month in which the officer reaches that maximum age: be transferred to the Retired Reserve if the officer is qualified for such transfer and does not request not to be transferred to the Retired

Reserve; or be discharged from the officer's reserve appointment if the officer is not qualified for transfer to the Retired Reserve or has requested not to be so transferred.

4. Title 10, United States Code, section 1552 states the Secretary of a military department may correct any military record of the Secretary's department when the Secretary considers it necessary to correct an error or remove an injustice.

//NOTHING FOLLOWS//