

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 November 2024

DOCKET NUMBER: AR20240002767

APPLICANT REQUESTS: Issuance of a 20 Year Letter, Notice of Eligibility for Retired Pay at Age 60.

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

- DD Form 149 (Application for Correction of Military Record)
- Email from Command Sergeant Major (CSM) E- C-
- Memorandum Requesting Assistance
- Request to Update Retirement Points
- Request Pertaining to Military Records
- Leave and Earnings Statements
- Orders D-03-800062 Discharge from the Active Guard/Reserve (AGR)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- DA Form 5016 (Chronological Statement of Retirement Points)

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, in effect, he needs to be properly discharged from the U.S. Army Reserve (USAR) to the retired reserve in order to receive all of his benefits. This would allow him to receive all the benefits to include a military identification card, access to military bases, he would be eligible for Tricare medical insurance, and all benefits.
3. The applicant provides the following documents:
 - a. Memorandum Request for Assistance from CSM E- C-, 4 August 2024, states He is requesting assistance to help a fellow servicemember. The applicant sought help and had concerns about his retirement orders to apply for his retirement benefits to include a retired identification card, medical, and access to the commissary. After evaluating his DA Form 5016 (Chronological Statement of Retirement Points) he apparently completed

16 years on the AGR program and served in a Reserve Status, which should give him enough time to retire as a Reservist. The issue is the applicant reached his expiration term of service (ETS) instead of going from the AGR program to the Reserve Component. As a result, he still needs to receive retirement orders or submit a retirement packet from the Army Reserves.

b. Self-authored letter, which states he is requesting an update to his retirement points and issuance of a DA Form 5016 (Chronological Statement of Retirement Points) in order to request his 20 year letter. He attached his LES statements to assist in this matter. The LESs are available for the Board's review

4. The applicant's service record contains the following documents:

a. The applicant was born in S____ 1958. His DD Form 4 (Enlistment or Reenlistment Agreement - Armed Forces of the United States) shows he enlisted in the Regular Army and entered active duty on 15 June 1977.

b. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably discharged from the Regular Army on 5 July 1981. He completed 4 years and 21 days of active service.

c. Orders 09-120617, published by USAR Components Personnel and Administration Center, 9 September 1981, voluntarily transferred him from USAR Control Group (Reinforcement) to a USAR unit effective 20 August 1981.

d. DD Form 4 (Enlistment/Reenlistment Document - Armed Forces of the United States) shows he reenlisted in the USAR on 7 March 1983.

e. Orders 47-24, published by Headquarters, 94th USAR Command, 18 April 1983, honorably discharged him from the USAR effective 6 March 1983 for immediate reenlistment.

f. Orders R-06-003911, published by USAR Personnel Center, 7 August 1985 ordered him to active duty in AGR status with a reporting date of 19 August 1985 for period of 3 years. These orders were amended changing his relief from active duty date from 18 November 1988 to 6 March 1989.

g. Orders R-02-000668, published by USAR Personnel Center, 15 February 1989, ordered him to active duty in AGR status with a reporting date of 19 June 1989.

h. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows he reenlisted in the USAR on 28 February 1989.

i. Orders R-03-001203, published by USAR Personnel Center, 20 March 1989, released him from active duty for the purpose of immediate reenlistment. His effective date of reenlistment was 28 February 1989 and his active duty commitment was for 3 years.

j. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows he reenlisted in the USAR on 27 February 1992.

k. Orders R-03-001225, published by USAR Personnel Center, 23 March 1992 released him from active duty for immediate reenlistment. His effective date of reenlistment was 27 February 1992 and his active duty commitment was 6 years.

l. Memorandum Department of the Army Imposed Bar to Reenlistment under the Qualitative Management Program (QMP), 29 July 1993 shows the USAR AGR program implemented the QMP as a means of selectively retaining the best qualified Soldiers on active duty. After a comprehensive review of his official military personnel file the USAR AGR staff sergeant QMP, convened on 8 June 1993, determine he was barred from reenlistment in the USAR AGR program. The applicant indicated he would submit an appeal. The appeal is not available for the Board's review.

m. On 20 October 1993, a memorandum states since the applicant's appeal is denied, his commander would initiate discharge or release from active duty not later than 60 days from the date of notification of denial.

n. Statement of Service for Computation of Service for Pay Purposes, 27 November 1996, shows he had the following periods of service:

- From 4 April 1977 through 14 June 1977, USAR Delayed Entry Program, 2 months and 11 days
- From 15 June 1977 through 5 July 1981, Regular Army, 4 years and 21 days
- From 6 July 1981 through 18 August 1985, USAR not active duty, 4 years, 1 month, and 13 days
- From 19 August 1985 through 27 November 1996, USAR AGR, 11 years, 3 months, and 9 days
- Total creditable service 19 years, 7 months, and 24 days

o. Orders D-03-800062, published by USAR Personnel Center, 14 March 1997, honorably discharged him from the USAR AGR effective 26 February 1998.

p. DA Form 1506 (Statement of Service - For Computation of Length of Service for Pay Purposes), 15 January 1998, shows he had the following periods of service:

- From 4 April 1977 through 14 June 1977, USAR Delayed Entry Program, 2 months and 11 days
- From 15 June 1977 through 5 July 1981, Regular Army, 4 years and 21 days
- From 6 July 1981 through 18 August 1985, USAR not active duty, 4 years, 1 month, and 13 days
- From 19 August 1985 through 26 February 1998, USAR AGR, 12 years, 6 months, and 8 days

q. Service Computation for Separation form, 9 January 1998, shows he had the following periods of service:

- From 4 April 1977 through 14 June 1977, USAR Delayed Entry Program, 2 months and 11 days
- From 15 June 1977 through 5 July 1981, Regular Army, 4 years and 21 days
- From 6 July 1981 through 18 August 1985, USAR not active duty, 4 years, 1 month, and 13 days
- From 19 August 1985 through 26 February 1998, USAR AGR, 12 years, 6 months, and 8 days
- Total creditable service for basic pay purposes 20 years, 10 months, and 23 days

r. DA Form 7154-R (Agreement to Join the Ready Reserve), 26 February 1998 shows the applicant agreed to serve in the USAR for a period of not less than three years.

s. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was a member of the USAR on active duty from 19 August 1985 through 26 February 1998. He had completed 12 years, 6 months, and 8 days of net active service this period with 4 years, 2 months, and 2 days of prior active service, and 4 years, 2 months, and 13 days total inactive duty service.

t. DA Form 5016 (Chronological Statement of Retirement Points), 21 November 2024 shows he had 20 years, 9 months, and 5 days qualifying service for retirement.

u. The applicant's service record is void of a 20 year notification of eligibility for retired pay at age 60.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows after a comprehensive review of his official military personnel file the

USAR AGR SSG QMP board convened on 8 June 1993, determined he was barred from reenlistment in the USAR AGR program. He appealed but his appeal was denied. As a result, he was issued discharge orders discharging him from the USAR. However, since he had completed 20 years and 9 months of qualifying service towards non-regular retirement, he should have been issued a 20-Year Letter and transferred to the Retired Reserve. Instead, he was discharged. By law and regulation, Reserve Component members normally are required to complete 20 years of qualifying service in order to be eligible for non-regular retirement. A qualifying year of service for nonregular retired pay is a full year during which a Regular or Reserve member is credited with a minimum of 50 retirement points. The applicant's DA Form 5016 shows he met the requirement. Therefore, the Board determined he should be issued a 20-Year Letter.

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 met the eligibility criteria for Reserve retired pay and issuing him a Notification of Eligibility for Retired Pay at Age 60 (20-Year Letter).







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. Army Regulation 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records) contains Army policy for U.S. Army Reserve (USAR) training and retirement point credit. It also prescribes guidance for USAR unit level strength accounting.

a. Paragraph 1-7 (Service requirement for a satisfactory year of service for non-regular retirement) states, a qualifying year of service for non-regular retired pay is a full year during which a Reserve Component (RC) member is credited with a minimum of 50 retirement points. Except as otherwise provided by law, an accumulation of 20 such years is one requirement necessary to qualify for non-regular retired pay.

b. Paragraph 3-5 (DA Form 5016) provides that, these statements — (1) Provide a permanent record of the total retirement points Soldiers earn during an anniversary year. (2) Inform Soldiers whether they earned sufficient points for a qualifying year for retirement or retention in an active status. (3) Provide Soldiers an opportunity to review their retirement points to request corrections. The DA Form 5016 is initiated and prepared by HRC from the processing of data furnished manually and utilizing automation. Prepared for Soldiers under HRC command to include obligated enlisted Soldiers who have earned at least one retirement point. Prepared to cover a full anniversary year of active duty for training or active duty. Prepared for all Soldiers regardless of the number of points awarded. Issued annually and upon correction to a record.

3. Army Regulation 135-180 (Retirement for Non-Regular Service) implements statutory authorities governing the granting of retired pay for non-regular service to Soldiers in the Army National Guard (ARNG), Army National Guard of the United States (ARNGUS) or the USAR.

a. Paragraph 2-2 (Basic qualifying service requirements) states, to be eligible for retired pay at or after the age (60 years of age) specified in paragraph 2-1 (Age requirements), an individual need not have military status at the time of application, but must have completed one of the following: (1) A minimum of 20 years of qualifying service computed under Title 10, U.S. Code (USC), section 12732; or, (2) Fifteen (15) years of qualifying service, and less than 20, computed under Title 10, USC, section 12732, if the individual is to be separated because the Soldier has been determined

unfit for continued Selected Reserve service, and none of the conditions in 10 USC 12731b(b) exist.

b. Paragraph 2-4 (Notification of Eligibility for Retired Pay at Age 60 (20 Year Letter)) states, (1) Under Title 10, USC, section 12731a, RC Soldiers who complete the eligibility requirements in section I will be notified in writing within 1 year after completion of the required service in accordance with AR 140–185. The Notification of Eligibility for Retired Pay at Age 60 (20 Year Letter) will be issued to Soldiers credited with 20 years of qualifying service and should be issued prior to discharge or transfer to the Retired Reserve. The Notification of Eligibility for Retired Pay at Age 60 (20 Year Letter) will be issued by HRC for all USAR Soldiers except for those who are within 2 years of qualifying for an active duty retirement and can remain on active duty to complete the required service. The Notification of Eligibility for Retired Pay at Age 60 (20 Year Letter) will be issued in the format determined by HRC. After a Soldier has been notified of their eligibility for retired pay for non-regular service, the Soldier's eligibility for retired pay may not be denied or revoked on the basis of any error, miscalculation, misinformation, or administrative determination of years of service performed, unless it resulted directly from the fraud or misrepresentation of the individual concerned. However, the number of years of creditable service upon which retired pay is computed may be adjusted to correct any error, miscalculation, misinformation, or administrative determination, and when such a correction is made the person is entitled to retired pay in accordance with the number of years of creditable service, as corrected, from the date they are granted retired pay.

4. Title 10, USC, section 12731 (Age and service requirements), provides that, a person is entitled, upon application, to retired pay computed under section 12739 (Computation of retired pay) of this title, if the person has attained the eligibility age of 60 years and has performed at least 20 years of service computed under section 12732 (Entitlement to retired pay: computation of years of service) of this title. In the case of a person who completed the service requirements of paragraph (2) (20 years of service computed under section 12732) before 25 April 2005, performed the last six years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve, except that in the case of a person who completed the service requirements of paragraph (2) before 5 October 1994, the number of years of such qualifying service under this paragraph shall be eight.

//NOTHING FOLLOWS//