

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 January 2025

DOCKET NUMBER: AR20240003675

APPLICANT REQUESTS: In effect, correction of his records to show he was issued retirement orders transferring him to the Retired Reserve when he was discharged from the Utah Army National Guard (UTARNG) in 2005.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), 27 August 2004
- National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service), 30 August 2005
- NGB Form 23B (Army National Guard (ARNG) Retirement Points History Statement), 14 March 2022
- UTARNG Memorandum - Subject: (Reissue) Notification of Eligibility for Retired Pay for Non-Regular Service (20 Years), 2 May 2023
- NGB Form 23A (ARNG Current Annual Statement), 2 May 2023
- Applicant sticky note

FACTS:

1. The applicant states he left the ARNG in 2005 but his unit did not cut retirement orders. His record just shows his Expiration Term of Service (ETS) date. He pursued this issue through the UTARNG Headquarters beginning in January 2023. A packet was recently submitted up the chain of command at the UTARNG Headquarters to issue retirement orders, but it has not been signed for unknown reasons. He has over 21 years of service and served honorably. He recently turned 60 years of age and should be able to receive retirement pay, based on his record. This was an oversight of his administration that he was not aware of until recently.

2. A review of the applicant's service records show:

a. Having prior Regular Army enlisted service, DD Form 4 (Enlistment/Reenlistment Document – Armed Forces of the United States) shows he enlisted in the UTARNG on 31 August 1990 for a period of 2 years.

b. DA Forms 4836 show he extended on:

- 28 August 1992 for 2 years
- 16 June 1994 for 6 years
- 30 August 2000 for 2 years
- 18 September 2002 for 2 years
- 27 August 2004 for 1 year

c. On 29 November 2004, the UTARNG published Orders Number 334-033, which promoted the applicant to the rank/grade of master sergeant (MSG)/E-8, effective on with a date of rank of 2 December 2004.

d. On 30 August 2005, the applicant was honorably discharged from the ARNG by reason of ETS. NGB Form 22 shows in:

- Item 5a (Rank) – MSG
- Item 7 (Date of Birth) – 24 December 1963
- Item 10a (Net Service This Period) – 15 years
- Item 10b (Prior Reserve Component Service) – 2 months
- Item 10c (Prior Active Federal Service) – 6 years, 8 months, and 11 days
- Item 10d (Total Service for Pay) – 21 years, 10 months, and 11 days
- Item 10e (Total Service for Retired Pay) – 21 years, 10 months, and 11 days

3. In support of his petition to the Board, the applicant provides:

a. NGB Form 23B dated 14 March 2022, which shows, in pertinent part, a total of 3429 Active Duty Training (ADT) points, 4230 Total Career Points, 4230 Total Points for Retired Pay, and 21 years, 10 months, and 11 days Creditable Service for Retired Pay.

b. UTARNG Memorandum – Subject: (Reissue) Notification of Eligibility for Retired Pay for Non-Regular Service (20 Years), dated 2 May 2023, which notified the applicant that he had completed the required years of service and will be eligible for retired pay upon his application at age 60 unless he qualifies for a reduced eligibility age in accordance with Title 10, U.S. Code (USC), Section 12731 (f). The applicant's eligibility is based upon the enclosed NGB Form 23A.

c. NGB Form 23A dated 2 May 2023 which shows, in pertinent part, a total of 3429 ADT points, 4230 Total Career Points, 4230 Total Points for Retired Pay, and 21 years, 10 months, and 11 days Creditable Service for Retired Pay.

d. A sticky note stating he provided supporting documents to be added to his case.

4. On 23 December 2024, the Chief, Special Actions Branch, NGB, provided an advisory opinion for this case and recommended approval. The advisory official states:

a. The applicant requests the Army Board for Correction of Military Records (ABCMR) along with the Army National Guard Bureau (ANGB) review the circumstances leading to him not being properly transferred to the retired reserves when he was discharged from the UTARNG in 2005, and therefore not able to retire when he turned 60 years of age.

b. In accordance with Title 10, USC, Section 12731-12737, a Reserve Soldier or former Reserve Soldier must have completed a minimum of 20 qualifying years of service and have attained the eligibility age of 60 for retired pay. According to the applicant's ARNG Current Annual Statement (NGB Form 23A), the applicant had completed 21 years, 10 months, and 11 days of creditable service for retire pay when he was discharged in 2005, and therefore should have been transferred to the retire reserve. The applicant turned 60 years of age on 24 December 2023.

c. In accordance with Army Regulation (AR) 600-8-7 (Retirement Services Program), chapter 4 which covers the Retirement Service Program and its pre-retirement briefings. It states that all ARNG Soldiers will receive the Department of the Army pre-retirement briefing, and that Army Retirement Services Offices (RSO) verify every Soldier has attended a briefing. Additionally, chapter 7, section 4 states that "Soldier electing transfer to the Retired Reserve will continue to receive credit for longevity, and Defense Finance and Accounting Service (DFAS) will compute their retired pay based on rates in effect at retirement.

d. A review of the applicant's claim by the UTARNG RSO showed no valid reasons for the applicant not being properly transferred to the retired reserve, and it additionally found that the applicant had not been issued a notice of eligibility to retired at age 60, which was issued to the applicant on 2 May 2023, but not yet in his military records.

e. This office finds that there is sufficient evidence to provide a recommendation to the ABCMR to have the UTARNG issue orders transferring the applicant to the retired reserve, so that he can apply for a grey area retirement. The applicant's orders should be backdated till his original discharge so that he can continue to receive credit for longevity, and DFAS will compute his retired pay based on rates in effect at retirement. The UTARNG concurs that the applicant was eligible to be transferred to retired reserve at the time of his discharge as there were no adverse actions pending on him, and therefore eligible for a grey area retirement. The opinion of this office was coordinated with the UTARNG RSO, and ARNG Retirement Services Branch.

5. On 14 January 2025, the applicant was provided with a copy of the NGB advisory opinion for comment or rebuttal. He did not respond.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board found that relief was/was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the findings and recommendation outlined in the NGB advisory opinion and the lack of any rebuttal submitted by the applicant of those findings and recommendations, the Board concluded there was sufficient evidence to grant correction of the applicant's records to show he was issued retirement orders transferring him to the Retired Reserve when he was discharged from the Utah Army National Guard (UTARNG) in 2005.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:XXX	:XXX	:XXX	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 Army records of the individual concerned be corrected by:

- Voiding any current separation order and generating a retirement order transferring the applicant to the Retired Reserved effective 30 August 2005
- amending the applicant's NGB Form 22 showing the reason for separation as Retirement.

//SIGNED//
X

CHAIRPERSON

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. AR 600-8-7 (Retirement Services Program) prescribes the policies for the Retirement Services and Survivor Benefit Plan (SBP) functions of military human resources management (see AR 600–8). Paragraph 4-1 (Retirement planning briefing policy) states:

a. All Regular Army Soldiers and Reserve Component (RC) Soldiers with 20 or more years of active federal service will receive the Department of Army retirement planning briefing, including an SBP briefing, at least 12–24 months before their retirement dates or for medical retirements at the start of the medical retirement process. In cases where a Soldier requests to retire in less than 12 months, the Soldier will attend the next group retirement planning briefing or receive an individual retirement planning brief from an RSO.

b. RC Soldiers will receive a retirement planning briefing, including an RCSBP briefing, between 18 and 20 years of service and a mandatory RCSBP briefing within 60 days after receipt of the Notification of Eligibility for Retired Pay (15- or 20-year letter) if they have not already received the briefing.

c. All retirement planning briefings and materials will refer Soldiers to the retired pay and SBP calculators on the MyArmyBenefits website to determine an estimate of their retired pay and SBP premiums. The briefings and materials will also caution Soldiers to verify that they will complete all remaining service obligations before retiring, especially the obligation incurred by transferring G.I. Bill benefits to Family members.

2. AR 135-180 (Retirement for Regular and Non-Regular Service) prescribes policy and procedures governing the granting of retired pay for non-regular service to Soldiers in the ARNG, Army National Guard of the United States (ARNGUS), and the U.S. Army Reserve (USAR).

a. Paragraph 2-1 (Age requirements) states, to be eligible for retired pay, an individual must have attained the minimum age prescribed by law, which is age 60.

b. Paragraph 2-2 (Basic qualifying service requirements) states, to be eligible for retired pay at or after the age specified in paragraph 2-1, 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 creditable years of qualifying service computed under Title 10, USC 12731(f); or, (2) At least 15 and less than 20 years of qualifying service, computed under Title 10, USC, 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.

c. Paragraph 2-4 (Notification of Eligibility for Retired Pay at Age 60 (20-Year Letter)) states, under Title 10, USC, section 12731(f)(3) Reserve Component Soldiers who complete the eligibility age requirements in section I of this chapter will be notified in writing within 1 year after completion of the required service in accordance with AR 140–185 or Nation Guard Regulation (NGR) 680–2. 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 Chief National Guard Bureau for all ARNG Soldiers serving in an active status in the state where the eligible Soldier was assigned at the time he or she becomes eligible. The Notification of Eligibility for Retired Pay at Age 60 (20-Year Letter) will be issued in the format shown in NGR 680–2.

//NOTHING FOLLOWS//