

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 January 2025

DOCKET NUMBER: AR20240003714

APPLICANT REQUESTS: in effect, elimination of the erroneous break in her service by correcting her DA Form 5016 (Retirement Accounting Statement) as follows:

- deleting the entry showing she was a member of U.S. Army Reserve (USAR) Control Group (Individual Ready Reserve-Reinforcement (IRR-RE) from 29 December 2010 to 5 January 2011
- adding an entry to show she was assigned to a Troop Program Unit (TPU) effective 29 December 2010
- showing she had a full qualifying year for retirement during her anniversary year ending (AYE) 7 September 2011

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- DA Form 5016
- National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service), for the period ending 28 December 2010
- NGB Form 23 (Army National Guard (ARNG) Retirement Points History Statement) prepared on 25 April 2012
- Orders C-01-100247 issued by U.S. Army Human Resources Command (HRC), Fort Knox, KY on 6 January 2011
- Defense Finance and Accounting Service (DFAS) Master Military Pay Account (MMPA) Record extract

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 she served in the USAR from 8 September 2003 to 10 December 2007. On 11 December 2007, she transferred to the Maryland ARNG (MDARNG), and served continuously until 28 December 2010. On 28 December 2010,

she was honorably released from the MDARNG and transferred back to the USAR. However, unbeknownst to her, she was placed in the IRR from 29 December 2010 to 4 January 2011 (a period of 7 days) before she was accepted and was pulled into her USAR unit on 5 January 2011.

a. As a result of this error, her AYE was documented incorrectly for 13 years until she began the retirement process in September of 2023. After much effort, HRC Retirement Branch successfully corrected her AYE and retirement points.

b. However, due to the lingering issue of having been in the IRR for 7 days upon her return to the USAR, she is still somehow short three points for a "good year" toward retirement. HRC and NGB have attempted to resolve this discrepancy, however they are unable to determine how to correct the injustice considering there was no break in her service to this day.

c. She continues to serve in the USAR. She has committed her entire adult life to the U.S. Army and has sacrificed for more than 20 years, which included three active-duty mobilizations. Without proper relief she will have served an entire year of credible service with no credit given, which will prove as an injustice to her as a veteran who has made a career out of the Army. She has already extended her current contract in an effort to correct her points and years. It seems that she will once again, have to extend her contract another year, just to file for retirement, if her points and years can be corrected.

3. On 8 September 2003, the applicant enlisted in the USAR for a period of 8 years. This established her AYE as 09/07 [7 September].

4. On 11 December 2007, the applicant enlisted in the MDARNG for a period of 2 years.

5. Orders 357-060 issued by MDARNG on 23 December 2010 and the applicant's NGB Form 22 show she was honorably discharged from the ARNG effective 28 December 2010 and assigned to USAR Control Group (Reinforcement). An entry on the applicant's NGB Form 22 indicates she was not available to sign the document.

6. Orders C-01-100247 issued by HRC on 6 January 2011 show the applicant was voluntarily released from USAR Control Group (Reinforcement) and assigned to a TPU effective 5 January 2011.

7. HRC memorandum, Subject: Notification of Eligibility for Retired Pay at Non-Regular Retirement (20-Year Letter), dated 10 September 2024, shows the applicant was informed that she had completed the required years of qualifying Reserve service and is

eligible for retired pay upon application at age 60 in accordance with Title 10, U.S. Code, Chapter 1223.

8. The applicant's DA Form 5016 prepared on 7 October 2024 shows she was separated from the ARNG on 28 December 2010; assigned to USAR Control Group (IRR-RE) from 29 December 2010 to 5 January 2011; and assigned to a USAR TPU on 6 January 2011. She continues to serve in a USAR TPU.

9. Title 10, U.S. Code, Sections 12731 through 12738, authorizes retired pay for Reserve component military service. Under this law, a Reserve Soldier must complete a minimum of 20 qualifying years of service to be eligible for retired pay at age 60. The term "good years" is an unofficial term used to mean years in which 50 or more retirement points are earned during each year, and which count as qualifying years of service for retirement benefits 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 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. After reviewing the applicant's statement and record of service, the Board majority finds sufficient evidence to support relief. The applicant asserts that she was actively serving in a TPU beginning 29 December 2010 and that the IRR-RE entry on her DA Form 5016 is erroneous. The available personnel records and service documentation corroborate the applicant's claim of TPU participation during the contested period. The applicant's participation and points earned during the RYE 7 September 2011 meet the criteria for a qualifying retirement year under the applicable regulations. The erroneous IRR-RE entry may have resulted from an administrative oversight and does not accurately reflect the applicant's duty status or service contributions during the period in question. The Board minority determined the correction to the applicant's record had already been completed by the issuance of the applicant's 20 Year Letter on 10 September 2024.

BOARD VOTE:

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:	:	:	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:

- deleting the entry showing she was a member of U.S. Army Reserve (USAR) Control Group (Individual Ready Reserve-Reinforcement (IRR-RE) from 29 December 2010 to 5 January 2011
- adding an entry to show she was assigned to a Troop Program Unit (TPU) effective 29 December 2010
- showing she had a full qualifying year for retirement during her anniversary year ending (AYE) 7 September 2011

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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, 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 Army Board for Correction of Military Records (ABCMR) determines it would be in the interest of justice to do so.

2. Title 10, U.S. Code, Sections 12731 through 12738, authorize retired pay for Reserve component military service. Under this law, a Reserve soldier must complete a minimum of 20 qualifying years of service to be eligible for retired pay at age 60. The term "good years" is an unofficial term used to mean years in which 50 or more retirement points are earned during each year, and which count as qualifying years of service for retirement benefits at age 60.

a. Section 12731(d) of Title 10, U. S. Code, states the Secretary concerned shall notify each person who has completed the years of service required for eligibility for retired pay. The notice shall be sent, in writing, to the person concerned within one year after the person completes that service.

b. Section 12738(a) states that after a person is notified that he or she has completed the years of service required for eligibility for retired pay, the person'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 unless it resulted directly from the fraud or misrepresentation of the person.

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) of the U.S. Army Reserve (USAR). To be eligible for retired pay, an individual must have attained the age of 60 and completed a minimum of 20 years of qualifying service.

a. After 30 June 1949, a Reservist must earn a minimum of 50 retirement points each retirement year to have that year credited as qualifying service. Only Soldiers assigned to an active status in a Reserve Component or individuals in active Federal service are authorized to earn retirement point credits.

When a person is in an active status for a period less than a full retirement year, a minimum number of retirement points are required to be earned to have that period credited as qualifying service. U.S. Army Human Resources Command (HRC) will update DA Form 5016 (Retirement Accounting Statement) for USAR Soldiers annually

at the end of their AY (anniversary year) and place it into their on-line record at <http://www.hrc.army.mil> for their review. Soldiers will review their retirement point statement annually and provide supporting documents to correct any deficiencies through their chain of command to HRC in accordance with Army Regulation 140–185.

4. Army Regulation 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records) prescribes the types of training and activities for which retirement points are authorized. It states that annual or terminal statements of retirement points (1) give a permanent record of the total retirement points a soldier earns during a retirement year; (2) tell the soldier whether he or she earned sufficient points to be credited with a qualifying period for retired pay or for retention in an active status; and (3) give the soldier an opportunity to request correction of errors in the statement.

//NOTHING FOLLOWS//