

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 February 2025

DOCKET NUMBER: AR20240007581

APPLICANT REQUESTS: issuance of Notice of Eligibility (NOE) for Retirement (20-year letter).

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

- DD Form 149 (Application for Correction of Military Record)
- Orders Number M-182-0010, 1 July 2003
- Permanent Orders 204-03, 23 July 2003
- HRC Form 249-E, 13 August 2004
- DD Form 214 (Certificate of Release or Discharge from Active Duty), period ending 27 June 2004
- Orders Number 05-037-00092, 6 February 2005

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 is requesting a "20-year letter." She is five months short of 20 years of service. Upon her return from deployment, she did not want to drill anymore. She never called the unit, and the unit administrator never called her. On 6 February 2005 she received an honorable discharge in the mail. She will be 60 in October and due to her post-traumatic stress disorder (PTSD) she did not want to do anything with the military following her deployment. She was asked by other Veterans if she was retire and when she shared her reason, she is often told there should be a way for it to be corrected.
3. The applicant provides:
 - a. Orders M-182-0010 dated 1 July 2003, ordered the applicant to active duty as a member of her U.S. Army Reserve (USAR) Component unit for a period of 365 days, in support of Operation Enduring Freedom (OEF).

b. Permanent Orders 204-03, 23 July 2003, reflects her temporary change of station in support of Operation Enduring Freedom, with location in Afghanistan and return to her permanent duty station.

c. HRC Form 249-E (Chronological Statement of Retirement Points), 13 August 2004, shows the applicant's service in the USAR for the period 11 July 1985 to 11 July 2003 with 19 years qualifying for retirement.

d. Orders Number 05-037-00092, 6 February 2005, shows the applicant was honorably discharged from the USAR.

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

a. A DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows she enlisted in the USAR on 11 July 1985.

b. A DD Form 214 (Certificate of Release or Discharge from Active Duty) that shows she entered active duty, as a member of the USAR, on 15 July 1985 and was released from active-duty training on 20 November 1985. Her DD Form 214 show she completed 4 months and 6 days of net active service and was awarded the 75E, Personnel Actions Specialist.

c. She entered active duty on 7 July 2003 in support of OEF.

d. On 27 August 2003, she accepted nonjudicial punishment (NJP) under Article 15, Uniform Code of Military Justice (UCMJ) in that she did in Afghanistan on or about 13 August 2003, unlawfully strike Sergeant H____ in the mouth and grab Sergeant H____ around the neck. Her punishment included of reduction to sergeant (SGT), E-5. The applicant appealed her punishment and after consideration of all matters presented the appeal was granted on 25 September 2003 as follows: reduction to sergeant, suspended to be automatically remitted if not vacated on or before 7 February 2004.

e. On 30 January 2004, she accepted NJP under Article 15, UCMJ in that she did in Afghanistan on or about 20 January 2004, receive a lawful order from Captain C____, to stop walking away and return, and willfully disobeyed the same and one specification of disrespect towards Captain C____, by failing to render a military salute, turning from and leaving while he was talking to her, and saying "I'm on my lunch break, I don't have to stop and I'm tired of you people harassing me." Her punishment included forfeiture of one day pay in the amount of \$78.00.

f. She was honorably released from active duty on 27 June 2004. Her DD Form 214 shows she completed 11 months and 21 days of net active-duty service, with 1 year,

and 1 month of prior active-duty service, and 16 years, 10 months and 25 days of prior inactive duty service. It also shows she was awarded or authorized:

- Army Achievement Medal
- Army Reserve Component Medal
- National Defense Service Medal
- Global War on Terrorism Expeditionary Medal
- Armed Forces Reserve Medal
- Armed Forces Reserve Medal with M Device
- Noncommissioned Officer Professional Development Ribbon
- Army Service Ribbon

5. By regulation (AR 135-180), 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.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not 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. Upon review of the applicant's petition and available military records, the Board concluded the applicant did not complete 20 qualifying years for retirement pay and therefore denied relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XX	:XX	:XX	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.



X //SIGNED//

CHAIRPERSON
Signed by:

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 15–185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. In pertinent part, it states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

3. 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.

4. Army Regulation 135-180 (Retirement for Non-Regular Service) implements statutory authorities governing the granting of retired pay for non-regular service.

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.

5. 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//