

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 September 2025

DOCKET NUMBER: AR20240008223

APPLICANT REQUESTS:

- In effect, correction of Order Number 023071, dated 24 January 2013, to list the authority for active duty service as Title 10 (Armed Forces), U.S. Code, section 12301(d) (Reserve Components Generally), vice Title 10, U.S. Code, section 10147 (Ready Reserve: Training Requirements)
- In effect, correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty), ending 31 July 2013, to show Title 10, U.S. Code, section 12301(d) as the active duty authority for the entire period of the report
- Permission to appear personally before the Board, via video/telephone

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

- DD Form 149 (Application for Correction of Military Record)
- Summary of Annual Training (AT) and Active Duty Operational Support – Reserve Component (ADOS-RC)
- Eight orders
- Memorandum
- DD Form 1610 (Request and Authorization for TDY (temporary duty) Travel of Department of Defense (DoD)) Personnel)
- DD Form 214
- Email

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 is a now retired U.S. Army Reserve (USAR) Judge Advocate General (JAG) officer; in 2013, and while still an active USAR member, he was mobilized and deployed to Jerusalem, Israel.

- The first set of orders (Order Number 023071) called him to active duty for annual training; however, instead of performing annual training, his actual purpose was to serve as the security justice advisor and legal advisor within the office of the U.S. Security Coordinator (USSC) for Israel and Palestine
- The next order continued his term of active duty in an ADOS-RC status, under the provisions of Title 10, U.S. Code, section 12301(d); with subsequent orders and amendments, he continued his deployment until his release from active duty, on 31 July 2013 (a total of 181 days)
- In October 2023, the Army transferred him to the Retired Reserve, and, in February 2024, he applied for retired pay
- He asked the U.S. Army Human Resources Command (HRC) to reduce his retirement eligibility age, based on his 2013 deployment, but was told only 94 days would qualify; according to HRC, the remaining 87 days did not count because the orders did not cite Title 10, U.S. Code, section 12301(d)
- The applicant argues, when the U.S. Army Reserve (USAR) Legal Command issued his orders, their clear intent was for him to be deployed for the duration under section 12301(d); as such, he requests the Board direct the necessary corrections so he can receive reduced retirement age credit for the entire 181 days
- In support of his requests, the applicant provides the AT and ADOS-RC orders; a memorandum justifying the need for his deployment; and an email from the USAR Legal Command Chief of Staff, which unequivocally confirms, "your 181 days should have all been covered by 12301(d)..."
- (The Fiscal Year 2008 National Defense Authorization Act allowed Reserve Component members to reduce their retirement eligibility age in 3-month increments for each aggregate 90-day period of active duty service served under provisions such as Title 10, U.S. Code, section 12301(d); 181 days would result in a 6-month reduction below age 60 (i.e., two aggregate 90-day periods))

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

- On 24 September 1993, after graduating from law school, completing the requirements to become a licensed attorney, and applying for a USAR commission, the applicant executed his oath of office as a USAR JAG officer
- Effective 1 October 2007, the Army promoted him to lieutenant colonel (LTC)/O-5
- On 1 February 2013, per Order Number 023071, the applicant entered active duty to perform AT
 - The order stated he was to report to the U.S. Consulate General in Jerusalem and remain on active duty for 29 days
 - The authority only shows "10 USC" with no section identified
 - (On 26 April 2013, Order Number 055982 amended the period from 29 to 27 days (i.e., ending on 27 February 2013))

- On 24 February 2013, Order Number 036474 ordered the applicant to perform ADOS-RC at the U.S. Consulate General in Jerusalem
 - The orders directed the applicant to report, on 2 March 2013, for 15-day term
 - (Order Number 056587, dated 29 April 2013, amended this order by changing the reporting date to 28 February 2013 and extending the term to 94 days (ending 1 June 2013))
 - Order Number 065201, dated 21 May 2013, further extended the applicant's ADOS-RC term by 60 days (ending 31 July 2013)
 - On 31 July 2013, the Army honorably released the applicant from active duty and returned him to the USAR; his DD Form 214 shows he completed 6 months (181 days) of net active duty service
 - Effective 14 August 2015, the Army promoted the applicant to colonel (COL)/O-6; on 26 October 2016, HRC issued the applicant his notification of eligibility for retired pay at age 60 (20-Year Letter)
 - On 2 October 2023, orders transferred the applicant to the Retired Reserve; on 15 February 2024, the applicant applied for a non-regular retirement; effective 2 November 2024, HRC placed the applicant on the Army of the United States Retired List
4. On 1 July 2025, the U.S. Army Reserve Command (USARC) provided an advisory opinion and non-concurred with the applicant's request.
- The applicant's initial active duty term was for annual training (first reflected as 29 days, then amended to 27 days)
 - After this, he was on ADOS-RC orders for 94 days and then an additional period of 60 days
 - The 94 days plus 60 days would equate to a total of 154 (i.e., one qualifying 90-period); the 27-day period would not count because it was annual training (Title 10, U.S. Code, section 10147) and not authorized under Title 10, U.S. Code, section 12301(d)
5. On or about 1 July 2025, the Army Review Boards Agency provided the applicant with copy of USARC's advisory opinion to give him the opportunity to submit a response and evidence in rebuttal. On 20 July 2025, the applicant sent the following response:
- When he applied for retired pay, he asked HRC to reduce his retirement eligibility age to 59 years and 6 months, based on his 2013 deployment to Israel; the Army claimed that he qualified for only for a 3-month reduction
 - Based on what USARC said, it seems like he now qualifies for a 5-month age reduction, but he nonetheless asks that the Board approve the full 6 months

- The applicant reiterates that, when he contacted the unit that sent him to Israel in 2013, they confirmed their intention was for the entire period of his deployment to be authorized under section 12301(d)

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial 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.

a. Correction of Order Number 023071, dated 24 January 2013, to list the authority for active duty service as Title 10, USC, section 12301(d), vice Title 10, USC, section 10147; The Board reviewed and concurred with the USARC advisory noting the applicant's initial active duty term was for AT (first reflected as 29 days, then amended to 27 days). Therefore, the Board determined relief was not warranted

b. Correction of his DD Form 214, ending 31 July 2013, to show Title 10, USC, section 12301(d) as the active duty authority for the entire period of the report; The Board reviewed and concurred with the USARC advisory noting after the applicant's initial period of AT, he was on ADOS-RC orders for 94 days and then an additional period of 60 days. The 94 days plus 60 days would equate to a total of 154 (i.e., one qualifying 90-period); the 27-day period would not count because it was AT. Therefore, the Board determined the applicant was entitled to 154 days of active duty under Title 10, USC, section 12301(d) minus the 27 days of AT.

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
XXX	XXX	XX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- amending Orders Number 036474, 88th Regional Support Command, dated 28 February 2013, further amended by Orders Number 056587, dated 29 April 2013 to show Title 10, USC, section 12301(d) (94 days)
- amending Orders Number 065201 88th Regional Support Command, dated 21 May 2013 to show Title 10, USC, section 12301(d) (60 days)

2. The evidence presented does not demonstrate the existence of a probable error or injustice as it pertains to the applicant's request for correction of Order Number 023071, dated 24 January 2013, to list the authority for active duty service as Title 10, USC, section 12301(d), vice Title 10, U.S. Code, section 10147 and correction of his DD Form 214, ending 31 July 2013, to show Title 10, U.S. Code, section 12301(d) as the active duty authority for the entire period of the report. Therefore, the Board determined the overall merits of this portion of the case are insufficient as a basis for correction of the records of the individual concerned.

X //Signed//

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. Title 10, U.S. Code:

a. 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.

b. Section 10147 (Ready Reserve: Training Requirements) states each person in the Armed Forces who is a member of the Ready Reserve will be required to participate in at least 48 scheduled drills or training periods and serve on active duty for training not more than 30 days each year.

c. Section 12301 (d) (Reserve Components Generally) states, at any time, an authority designated by the Secretary of the Army may order a member of the Reserve Component to active duty with the member's consent.

d. Chapter 1223 (Retired Pay for Non-Regular Service), section 12731 (Age and Service Requirements) spells out the eligibility criteria for a non-regular retirement; these include the requirement to have performed at least 20 years of qualified service and the attainment of the eligibility age; the Soldier must submit an application for non-regular retired pay.

2. The Fiscal Year (FY) 2008 National Defense Authorization Act (NDAA) permitted members of the Ready Reserve, who served on active duty after the enactment of this NDAA, to reduce their eligibility age below 60 years by 3 months for each aggregate of 90 days served in any FY. The service on active duty was to have been performed on or after 29 January 2008 and authorized by sections that included 12301 (d).

3. Department of Defense Instruction 1215.07 (Service Credit for Non-Regular Retirement), currently in effect, outlines the requirements to receive service credit for a non-regular retirement and implemented the reduced retirement age authorized in the FY 2008 NDAA.

a. Paragraph 3.5 (Reduced Eligibility Age for Receipt of Retired Pay for Non-Regular Service). In accordance with Title 10, U.S. Code, section 12731, a Ready Reserve member, who serves on active duty after 28 January 2008, will have their eligibility age for receipt of retired pay reduced below age 60 by 3 months for each aggregate 90-day period served in any FY, or in any two consecutive FY, after 30 September 2014.

b. The eligibility age cannot be reduced below age 50.

4. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR), currently in effect, states:

a. Paragraph 2-2 (ABCMR Functions). The ABCMR decides cases on the evidence of record; it is not an investigative body.

b. Paragraph 2-9 (Burden of Proof) states:

(1) The ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary).

(2) The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

c. Paragraph 2-11 (ABCMR Hearings) states applicants do not have a right to a hearing before the ABCMR; however, the Director or the ABCMR may grant a formal hearing.

//NOTHING FOLLOWS//