

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 March 2025

DOCKET NUMBER: AR20240009612

APPLICANT REQUESTS: correction of his DA Form 5016 (Retirement Accounting Statement), to add 40 additional non-paid retirement points in Retirement Year Ending (RYE) 13 November 2018.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored statement
- DA Form 1380 (Record of Individual Performance of Reserve Duty Training) dated 8 May 2024 for 1 through 8 February 2018 digitally signed on 9 May 2024 by Mr. B-S-
- DA Form 1380 dated 8 May 2024 for 9 February 2018 digitally signed on 9 May 2024 by Mr. B-S-
- DA Form 1380 dated 8 May 2024 for 1 through 5 March 2018 digitally signed on 9 May 2024 by Mr. B-S-
- DA Form 1380 dated 8 May 2024 for 1 through 8 September 2018 digitally signed on 9 May 2024 by Mr. B-S-
- DA Form 1380 dated 8 May 2024 for 17 through 24 September 2018 digitally signed on 9 May 2024 by Mr. B-S-
- DA Form 1380 dated 8 May 2024 for 1 through 8 October 2018 digitally signed on 9 May 2024 by Mr. B-S-
- DA Form 1380 dated 8 May 2024 for 9 through 10 October 2018 digitally signed on 9 May 2024 by Mr. B-S-
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for service ending 6 September 2001
- DD Form 214 for service ending 4 December 2003
- DD Form 214 for service ending 27 July 2010
- DD Form 214 for service ending 12 January 2012
- Office of the Deputy Chief of Staff G 3/5/7 Memorandum dated 13 October 2023, Subject: Lieutenant Colonel (LTC) J- M- (the applicant) – Certificate of Performed Duty, B-S- states he was personally familiar with the duty the applicant performed on DA Forms 1380

- C-C-, Consulting Attorney letter dated 16 October 2023 stated to the best of his knowledge the DA Forms 1380 prepare by the applicant accurately reflect actual work performed

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:

- U.S. Army Judge Advocate General Corps Defense Appellate Division Commander approved his duty for points only
- duty was observed by LTC B-S-
- DA Forms 1380 were initially rejected because the duty was performed at his private law firm
- if points are not awarded, it would violate the Anti-Deficiency Act

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

- on 20 January 1997, the applicant was ordered to active duty to fulfill an active Army requirement by Orders Number A-10-004057 dated 30 October 1996
- on 14 November 1996, the applicant executed his oath of office and was appointed a Reserve commissioned officer
- on 6 September 2001, the applicant was honorably released from active duty
- the applicant was ordered to active duty on three other occasions during the remainder of his career
- on 15 July 2011, the applicant was assigned to the U.S. Army Reserve (USAR) Control Group (Reinforcement) by Orders Number C-07-110216 dated 15 July 2011
- on 11 January 2012, the applicant was assigned to a USAR Troop Program Unit by Orders Number C-01-200541 dated 11 January 2012
- on 22 March 2013, the applicant was assigned to the USAR Control Group (Reinforcement) by Orders Number C-03-304298 dated 22 March 2013
- on 6 October 2016, the applicant was attached to the USAR Legal Command for points only by Orders Number C-10-613421 dated 6 October 2016
- on 1 December 2024, the applicant was assigned to the USAR Control Group (Retired Reserve) by Orders Number 10432421
- DA Form 5016 dated 13 December 2024, in RYE 13 November 2018, the applicant earned zero inactive duty training points, 15 membership points, and zero active duty training points for a total of 15 creditable points

4. On 12 March 2025, in the processing of this case, Headquarters, U.S. Army Reserve Command, provided an advisory opinion regarding the applicant's request for the correction of his DA Form 5016. The advisory official recommended approval of his request. A review of his provided documents it was determined he should be awarded 40 retirement points for the days specified on the DA Forms 1380. He provided sufficient evidence to suggest every reasonable attempt to correct his records was made and the duty was directed.

5. On 14 March 2025, the applicant was provided with a copy of the advisory opinion for comment or rebuttal. He responded in effect concurring with the advisory opinion.

BOARD DISCUSSION:

1. 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 and standard review based on law, policy and regulation. Regulatory guidance provides that non-paid DA Forms 1380 will not be entered into ADARS and will be forwarded to HRC for award of retirement points no later than the end of each duty month. Upon review of the applicant's petition, the Headquarters, U.S. Army Reserve Command advisory opinion, and available military record, the Board determined that they did not agree with the advisory opinion in that the applicant did not follow regulatory guidance.

2. The Board noted the applicant did not perform any paid drills or annual training between 2014 and 2022, and his last verified annual training occurred in 2013. The points-only drills in question were reportedly conducted on weekends, and there is no indication that the applicant requested split training with pay, which would have provided a verifiable record of duty. The DA Forms 1380 submitted to support the claim were signed in 2024 by a retired colonel (COL(R))/GS-14 who was not in command during the period in question and therefore lacked the authority to validate the drills. Additionally, the applicant's commander at the time declined to sign the forms, raising further concerns about the legitimacy of the claimed duty.

3. The Board recognized the applicant's long service and prior active duty contributions, but found the documentation provided does not meet the evidentiary threshold required to substantiate retroactive credit for retirement points. The absence of contemporaneous verification, lack of command endorsement, and the timing of the signatures undermine the credibility of the claim. Based upon a preponderance of the evidence, and notwithstanding the recommendation of the advisory official, the Board determined the applicant failed to submit his request within the timeframe the duty was

performed, as required by regulation. The Board agreed there was insufficient evidence of an error or injustice which would warrant relief in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	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

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 (AR) 140-1 (Mission, Organization, and Training), provides policy guidance on the mission, organization, and training of the U.S. Army Reserve (USAR).

a. Paragraph 3-11 (Equivalent Training (ET)), ET is performed in lieu of scheduled training (either RST or, Unit Training Assembly (UTA) or MUTA). Pay or retirement point credit, or both is authorized. ET must be accomplished within 60-days after the training for which it is substituted, or by the end of the training year (fiscal year) if within 60-days of that date. An explanation of the circumstances will be included, with a statement that the ET, if granted, will not cause the Soldier to exceed the 48 paid unit assemblies for the fiscal year. a. ET is limited to Soldiers who have missed a UTA, MUTA, or RST due to unforeseen personal emergencies and desire to make it up. No more than 4 UTAs may be made up during a fiscal year. b. ET given will be the same type and quality as the training missed. It will be appropriate to, and enhance the ability of, Soldiers to carry out their assigned duties. For staff or support personnel, this may include duty which enhances unit training, management, or readiness. c. ET must be at least as long as the training missed. d. ET will not be granted for assemblies missed due to ADT.

b. Paragraph 3-14 (Additional training assemblies (ATAs)), ATAs may be used to conduct additional wartime or assigned mission training. An ATA will be a minimum of 4-hours. No more than 12 ATAs will be performed by any one individual per year.

3. Army Regulation 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records) prescribes policy for U.S. Army Reserve (USAR) training and retirement point credit.

a. Paragraph 2-1 (Criteria for crediting retirement points), the limitations on the number of points which may be credited to a Soldier during a retirement year. Maximum-365 (366 during leap year) points. However, Annual or Terminal Statement of Retirement Points will report all points earned. Retirement points credited for activities other than active service or funeral honors may not exceed 130 retirement points for anniversary years closing on or after 30 October 2007. IDT will be either 4-hours in length for one retirement point or 8-hours in length for two retirement points, with the exception of the 2-hour IDT funeral honors duty.

b. Paragraph 2-2 (Criteria for earning retirement points) states retirement points may be earned by USAR Soldiers for active duty or duty in an active status for ADT, initial active duty for training (IADT), involuntary active duty for training (involuntary ADT), voluntary IDT, annual training (AT), IDT, membership points, and for other training of individual Soldier in a non-pay status.

c. Paragraph 2-4 (Criteria for awarding retirement points), personnel on AD, ADT, IADT, involuntary ADT, or AT are awarded 1 point for each calendar day they serve in one of these categories and may not be awarded additional points for other activities while in such status. Table 2-1 provides criteria for award of retirement points for IDT performed in accordance with AR 140-1 (unless another reference is cited). Most types of IDT are covered by one of the following rules on required duration of IDT and calendar day limitations on points.

- Four-hour rule; Soldiers earn one point for each scheduled 4-hour period of IDT at Battle Assembly, RST, ET, or ATA
- Four/eight-hour rule; Soldiers earn one point for each 4-hour or greater period, award of a second point in the same day requires additional hours to bring the day's total to a minimum of 8-hours for a maximum of two points in 1 calendar day

d. Paragraph 3-3 (DA Form 1380), DA Form 1380 will be prepared for a unit Soldier who performs ET or additional training with their unit subsequent to the scheduled BA. TPU units will retain one copy of the DA Form 1380 to post the appropriate entry into ADARS for the month's report and then place in the appropriate Army records information management system file. Non-paid DA Forms 1380 will not be entered into ADARS and will be forwarded to HRC for award of retirement points no later than the end of each duty month.

e. Table 3-1 provides that the code "N" will be entered for RST. The code "N" indicates the Soldier is entitled to retirement point credit only. The code "P" indicated the Soldier is entitled to retirement point credit and pay.

4. Department of Defense Instruction (DoDI) 1215.07 (Service Credit for Non-Regular Retirement) states inactive duty may be credited for each attendance at an inactive duty training period. A maximum of 2 retirement points for attendance at inactive duty training periods or equivalent training, in any 1 calendar day. The Service member's participation is without payment other than the pay to which the Service member is entitled as a Reserve Component member. Credit no more than one retirement point for fewer than 8-hours.

//NOTHING FOLLOWS//