

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 April 2025

DOCKET NUMBER: AR20240010225

APPLICANT REQUESTS: honorable retirement for non-regular service from the U. S. Army Reserves (USAR) instead of an honorable discharge

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

- DD Form 149 (Application for Correction of Military Record)
- Notification of eligibility (NOE) for retired pay at age 60 (20 Year Letter), 14 August 2008

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 requesting to be retired instead of discharged from the USAR. He was not aware that he was not retired, as he trusted his unit at the time, to do the right thing and process his separation as a retirement vice a discharge.
3. The applicant provides, and the service record shows:
 - On 10 July 1987, he enlisted in the Army National Guard (ARNG)
 - On 10 July 1993, he reenlisted in the USAR
 - On 14 August 2008, he was issued his NOE for retired pay at age 60 (20 Year Letter)
 - On 31 March 2009, he was honorably discharged from the USAR
 - As of 8 April 2025, he has completed a total of 20 years, 8 months, and 22 days of qualifying service for retirement
4. The applicant does not provide, and the service record is void of any retirement documents, besides his NOE.

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 and standard review based on law, policy and regulation. Upon reviewing the applicant's petition and available military records, the Board determined that the applicant was issued a Notification of Eligibility for Retired Pay at Age 60 (Twenty-Year Letter) dated 14 August 2008. The Board noted that the applicant was discharged with an effective date of 31 March 2009 with an Honorable character of service. After thorough consideration, the Board found sufficient evidence to support the applicant's contention for an honorable retirement for non-regular service from the U.S. Army Reserves (USAR) rather than an honorable discharge. As such, the Board granted relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
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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 the Army records of the individual concerned be corrected to show the applicant received a honorable retirement for non-regular service from the U. S. Army Reserves (USAR) instead of an honorable discharge.

//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. Title 10 (Armed Forces), 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 Army Board for Correction of Military Records (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 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) or the U.S. Army Reserve (USAR). Chapter 1 (Responsibilities). Ensure ARNG unit commanders or unit representatives will—

a. Report duty participation and completion of actions that earn retirement point credit for Soldiers.

b. Monitor their Soldiers' NGB Form 23A or DA Form 5016 (Chronological Statement of Retirement Points) to detect errors and initiate corrective action when Soldiers provide supporting documentation. Commanders will help Soldiers to obtain missing documents and will coordinate through their chain of command to State Retirement Point Accounting Management (RPAM) administrator/HRC to resolve issues in accordance with NGR 680–2 or AR 140–185.

c. Provide pre-retirement briefings and assistance with the RCSBP to help Soldiers make and process their election, if eligible, at issuance of the Notification of Eligibility for Retired Pay at Age 60 (20 Year Letter).

d. Assist with the completion of the retired pay application, as requested.

e. Submit retirement request documents to the appropriate authorities in a timely manner to ensure Soldiers are transferred to the Retired Reserve by their mandatory removal date/age, retired pay eligibility age, maximum age, or earlier at the Soldier's request.

3. Army Regulation 15-185 (ABCMR), currently in effect, prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. 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.

//NOTHING FOLLOWS//