

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 May 2025

DOCKET NUMBER: AR20240011279

APPLICANT REQUESTS: Backpay for retired pay for the period of 8 June 2012 through 23 July 2024.

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

- DD Form 149 (Application for Correction of Military Record)
- U.S. Army Human Resources Command (AHRC) Orders Number C07-496706
- AHRC Letter dated 23 July 2024, the applicant's application for retired pay was approved
- AHRC Memorandum, Subject: Request Retire Pay Major F-, F- (the applicant) – Effective Date of 8 June 2012, dated 25 July 2024, states:
 - Request authorization for full retirement pay benefits retroactive to 8 June 2012
 - Reviewed the applicant's service record and determined he did not submit his retired pay application prior to his retirement date
 - No record of communication directing the applicant to apply for retirement benefits or advising him of the requirements
 - Defense Finance and Accounting Service (DFAS) provided a list of service members who were not aware of the application process
 - AHRC notified the applicant who subsequently complied with the application requirement
 - AHRC is requesting the Army Board for Correction of Military Records (ABCMR) to consider the insufficiency of guidance from service members past units and chain of command
 - AHRC recommends every applying service member receive full retirement pay from the date of eligibility

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 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:

- He requests to be authorized retired pay from the date of 8 June 2012, the date he turned 60-years of age
- He was unaware of this error until AHRC contacted him
- He proudly served his country with honor and dignity for 23-years
- He was not provided adequate information regarding the retired pay application process when he was separated from the Army
- If he had known he would have applied upon reaching 60-years of age
- He requests the Board grant him relief given his faithful service

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

- With prior enlisted U.S. Army Reserve (USAR) service, he executed his oath of office on 26 May 1979 and was appointed as a Reserve commissioned officer
- On 17 July 1979, he was ordered to active duty upon his appointment in the USAR to fulfill an active duty commitment by Orders Number 112-7-A-989 dated 12 June 1979
- On 31 August 1990, he was assigned to the U.S. Army Transition Point for his release from active duty by Orders Number 123-43 dated 27 June 1990
- On 26 October 1990, he was honorably released from active duty and assigned to the USAR Control Group (Reinforcement)
- On 27 June 2001, he was notified of his eligibility for retired pay at age 60
- On 6 March 2003, he was assigned to the USAR Control Group (Retired Reserve) due to non-selection for promotion by Orders Number C-03-307249 dated 7 March 2003
- On 8 June 2012, he was placed on the Army of the United States retired list by Orders Number C07-496706 dated 23 July 2024
- Soldier Management Services - WEB Portal shows on:
 - 19 April 2012, he contacted AHRC inquiring about retirement application assistance, most of his questions were answered
 - 5 July 2024, AHRC emailed the applicant a copy of the retired pay application packet
 - 24 July 2024, his retirement packet was processed and forwarded to DFAS

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. The applicant was notified of his eligibility for retired pay at age 60 on 27 June 2001. The Board reviewed the applicant's retirement order, dated 23 July 2024 and effective 8 June 2012 from AHRC. The Board concluded the applicant was entitled to retired pay, effective the date of eligibility and granted relief with entitlement to retroactive pay as determined by DFAS.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: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 Army records of the individual concerned be corrected by showing he applied for and was granted retirement pay upon qualification at age 60 on 8 June 2012 and that his application was received and processed in a timely manner.

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 (USC), 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. Title 31 USC, section 3702 (Authority to settle claims), (b) (1) A claim against the Government presented under this section must contain the signature and address of the claimant or an authorized representative. The claim must be received by the official responsible under subsection (a) for settling the claim or by the agency that conducts the activity from which the claim arises within 6-years after the claim accrues except: (A) as provided in this chapter or another law; or (B) a claim of a State, the District of Columbia, or a territory or possession of the United States.

3. Department of Defense Financial Management Regulation 7000.14-R, Volume 7B (Military Pay Policy - Retired Pay), Officers and enlisted members of the military may be retired for voluntary or involuntary reasons. Military retired pay is divided into three general categories: retired pay for Regular service, retired pay for non-Regular (Reserve/Guard) service, and retired pay for physical disability. With the exception of retirement for physical disability and certain temporary authorities for early retirement, a member must complete the requisite years of service (generally at least 20-years of service) in order to be eligible for retired/retainer pay. (Age Requirement), the eligibility age for a Non-regular retirement for age and service is 60-years of age. (Non-Regular Retirement), Reservists are entitled to pay effective on the date on which the requirements for age and service have been met, or on the first day of any later month that the retiree may elect. Chapter 10 (Correction of Records), if a payment is due as a result of a correction of record, the claim for such payment accrues on the date of the correction. A claimant has 6-years from the date of the correction of record to claim the payment owed as a result of the correction of record.

4. Army Regulation 135-180 (Retirement for Regular and Non-Regular Service) prescribes policy and procedures 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), and the U.S. Army Reserve (USAR).

a. Paragraph 4-1 (Application requirements and timelines). a. It is the responsibility of all qualified individuals to submit their application for retired pay no earlier than 9-months and no later than 90-days prior to the date retired pay is to begin.

b. Paragraph 4-7 (Date retired pay begins), Retired pay will begin on the day in which the individual meets the requirements for age and service or the first day of any

later month that the retiree may elect on DD Form 108. There is a 6-year statute of limitations for back pay of retired pay (see 31 USC 3702(b)). A claim for retired pay must be filed within 6-years after the date of eligibility for retired pay. If not filed within the 6-year limitation, 1-day's retired pay will be lost for each day of delay in filing the claim application. For example, if eligibility was attained on 2 July 1989 and the application for retired pay is not recorded by DFAS until 2 September 1995, payment can be made only from 2 September 1989.

//NOTHING FOLLOWS//