

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 September 2023

DOCKET NUMBER: AR20230002832

APPLICANT REQUESTS: cancellation and removal of debt assessed by Defense Finance and Accounting Service (DFAS).

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Four (4) USAA Federal Savings Bank statements
- Personnel Qualification Record
- Two (2) DD Forms 4 (Enlistment/Reenlistment Document)
- Two (2) U.S. Army Human Resources Command (AHRC) orders
- Chronological Statement of Retirement Points

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:

a. The debt should be removed from his record, as he was not paid for a reenlistment bonus on 2 July 2008. He previously submitted redacted bank records for that period but was later asked to send in additional records which showed other unrelated payments. To obtain these records is impossible. How can he possibly prove a negative receipt of payment other than records he's already provided?

b. He had never been notified of the basic allowance for housing (BAH) and basic allowance for subsistence (BAS) debts, nor what he owed the amount for either one.

c. On 28 September 2007, his expiration term of service (ETS) was amended from 14 February 2006 to "indefinite." He was not eligible, nor did he reenlist in 2008; therefore, he cannot provide evidence for something he did not do nor receive payment

for. He has been trying to correct this error since 2016 and does not know what else to do.

3. The applicant provides:

a. Four (4) USAA Federal Savings Bank statements, dated between 11 July 2008 and 11 October 2008.

b. Personnel Qualification Record, dated 4 May 2013, with emphasis on the following areas in Section II – Service Data:

- Expiration Ready Reserve Obligation (EXP RDY RES OBLG): 30 June 2029
- Expiration Troop Program Unit Service (EXP TPU SVC): 30 June 2029
- Individual Incentive Status Code (IND INCENT STATUS CD): (blank)
- Individual Incentives Effective Date: (blank)
- Incentive Bonus Type: (blank)
- Incentive Program Code: (blank)

c. Two (2) DD Forms 4 (Enlistment/Reenlistment Document) as follows:

1) On 15 February 2000, he enlisted in the Army Reserve as a prior service member for a term of six (6) years. It also shows the following:

a) DA Form 5261-4-R (Student Loan Repayment Program Addendum), item 2 reflects he contracted to serve for 3 or more years in the Selected Reserve as in the MOS 92R4, which Headquarters Department of the Army (HQDA) approved.

b) DA Form 5261-5-R (Selected Reserve Incentive Program – USAR Prior Service Enlistment Bonus Addendum), Section V (Entitlement), reflects he had less than 14 (written in) years total military service and he is enlisting for 6 years for a bonus of \$5,000. The initial payment will be \$2,500. The remainder will be paid in 6 increments of \$416.66. The increments will be paid on satisfactory completion of the 6-year term of service in a USAR Selected Reserve TPU.

2) On 13 February 2006, he reenlisted in the Army Reserve for an indefinite term.

d. Two (2) U.S. Army Human Resources Command (AHRC) orders as follows:

- Orders C-02-403458A02, dated 28 September 2007, amended orders C-02-403458, dated 13 February 2004, to change his ETS from “14 February 2006” to “30 June 2029”

- Orders C-04-808085, dated 29 April 2008, reflects a voluntary reassignment from the USAR Control Group to 7 Headquarters and Headquarters Company, Army Reserve Company, APO AE 0914, effective 3 April 2008

e. Chronological Statement of Retirement Points, dated 4 May 2013, contains a recapitulation of retirement credits received by the Command. There were several handwritten notes on the statement; however, no explanation was provided by the applicant.

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

a. He enlisted in the Regular Army (RA) on 7 April 1987 for three (3) years in the military occupational specialty (MOS) of 92R, Parachute Rigger.

b. His subsequent reenlistments to include the component, length of reenlistment, and reenlistment option are as follows:

- On 17 November 1989, RA, two (2) years, 17-month stabilization
- On 21 February 1990, voluntarily waived reenlistment commitment to accept assignment to Fort Campbell, KY
- On 24 October 1991, RA, three (3) years, 12-month stabilization
- On 14 March 1994, RA, four (4) years, overseas area option: Italy
- On 20 March 1997, RA, three (3) years, the needs of the Army

c. DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects he was discharged on 19 March 2000 under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), chapter 4, completion of required active service, with a characterization of service of honorable. He served 12 years, 11 months, and 13 days of net active service this period.

d. On 15 February 2000, he enlisted in the U.S. Army Reserve as a prior service member for a term of six (6) years. It also shows the following:

- DA Form 5261-4-R (Student Loan Repayment Program Addendum), item 2 reflects he contracted to serve for 3 or more years in the Selected Reserve as in the MOS 92R4 and Headquarters Department of the Army (HQDA) approved a maximum of \$10,000 in loan repayments.
- DA Form 5261-5-R (Selected Reserve Incentive Program – USAR Prior Service Enlistment Bonus Addendum), Section V (Entitlement), reflects he had less than 14 (written in) years total military service and he is enlisting for 6 years for a bonus of \$5,000. The initial payment will be \$2,500. The remainder will be paid in 6 increments of \$416.66. The increments will be paid on satisfactory completion of the 6-year term of service in a USAR Selected Reserve TPU.

e. On 13 February 2006, he reenlisted in the USAR for an indefinite term. As of note, when a Service Member reenlists for an Indefinite Term, they will no longer be eligible for subsequent reenlistments. In addition, the Service Member will be allowed to serve up to the Retention Control Point for their current rank, which in the applicant's case was 30 June 2029.

f. There were no further DD Forms 4 found in his service record in Interact Personnel Electronic Records Management System (iPERMS).

g. Although the applicant mentions his retirement in 2015, his service record in iPERMS does not contain a copy of his discharge and/or retirement orders.

5. Department of the Army Office of the Deputy Chief of Staff, G-1 memorandum, undated, Subject: Advisory Opinion, Issue: Bonus/Debt, states:

a. This office recommends the board disapprove the applicant's request for administrative relief. The applicant did not provide sufficient documentation regarding details of the debt that warrants granting administrative relief.

b. According to officials at the Defense Finance and Accounting Service (DFAS), the applicant has a debt in the amount of \$16,088.79 for bonus payments to his USAA bank account. While the SGLI debts were closed by DFAS after separation, the debt for the bonus (\$11,604.75), Basic Allowance for Housing (\$190.04), plus interest and administration fees, remain. Since the applicant did not make any payments, DFAS transferred the debt to the credit bureau for collection.

c. The applicant should reapply for administrative relief should he obtain a letter from his financial institution verifying non-receipt of the bonus payment deposits or the tracer number that proves the deposits were returned to DFAS.

6. In response to the advisory opinion provided by the Army Office of the Deputy Chief of Staff, G-1, the applicant states:

a. He has not paid the debt because he has been trying to resolve this matter since he was first notified in 2011. He requested a hearing but was informed of a Summary Judgement and told to resubmit the bank statements. He's submitted the only statement that has relevance to the dates in question. Furthermore, in the judgement none of the other points were addressed:

- He did not enlist or reenlist for this bonus
- He has not been provided proof as to why it was determined that he did not qualify retain the bonus [sic] and why he was never given the opportunity to prove he met the criteria for the bonus

b. He has filed a DD Form 149 to his correct record to reflect he did not reenlist for a Special Skills Bonus in 2008. He also filed a DD Form 2789 (Waiver/Remission of Indebtedness Application) numerous times and each time the record was not corrected, and the case was closed or dismissed. He has sent all the requested information that he has access to such as his orders showing effective date of reclassification from 92R (Parachute Rigger) to 74B (Information Systems Operator Analyst). He paid back a Reserve Enlistment Bonus of \$1,800 due to this change.

c. He never reenlisted or enlisted for a Special Skills bonus in 2008; therefore, it would be impossible for him to provide this document. He does not have a record of this reenlistment, nor does he have a recollection of ever signing for this bonus. A \$20,000 Skills Bonus would have been very memorable, especially since he had already reenlisted for an Indefinite term.

d. The only evidence he has of this debt is what was provided to him from DFAS, which he believes to be an error for the following reasons:

- He has no record of ever reenlisting during that time and no records have been provided to him regarding this reenlistment
- He was on serving on an INDEFINITE status sine 2006 as a 74B
- He did not reenlist for a critical skill bonus
- No proof was ever given as to why if he did qualify for this bonus, why would it have been taken away

7. Army Regulation (AR) 600-4 (Remission or Cancellation of Indebtedness) in accordance with the authority of Title 10 USC, section 4837, the Secretary of the Army may remit or cancel a Soldier's debt to the U.S. Army if such action is in the best interest of the United States, the debt was incurred while on active duty or in an active status, and the Soldier received an honorable discharge (if separated from active duty). Under Title 10, United States Code (USC), section 4837 a debt acknowledged as valid may be remitted or cancelled.

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 contentions, the military record, and regulatory guidance.

2. The Board agreed that the documentation which the applicant provided for consideration of his request insufficient to determine within reasonable doubt that his debts had been paid. In the absence of definitive documentation from the financial institution at which he had an account at the time, the Board determined the evidence presented insufficient to warrant a recommendation for relief. If such documentation were obtained, the applicant could reapply for reconsideration of his request.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

: : : GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

█ █ █ DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined 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.

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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, United States 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 Army Board for Correction of Military Records (ABCMR) determines it would be in the interest of justice to do so.

2. Army Regulation (AR) 600-4 (Remission or Cancellation of Indebtedness) in accordance with the authority of Title 10 USC, section 4837, the Secretary of the Army may remit or cancel a Soldier's debt to the U.S. Army if such action is in the best interest of the United States, the debt was incurred while on active duty or in an active status, and the Soldier received an honorable discharge (if separated from active duty). Under Title 10, United States Code (USC), section 4837 a debt acknowledged as valid may be remitted or cancelled.

//NOTHING FOLLOWS//