

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

- IN THE CASE OF: [REDACTED]

BOARD DATE: 19 January 2024

DOCKET NUMBER: AR20230003663

APPLICANT REQUESTS: cancellation or remission of indebtedness in the amount of \$6,109.00.

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

- DD Form 149 (Application for Correction of Military Record)
- Transmittal Log (TL) History, 21 July 2020
- VA Form 21-8951 (Notice of Waiver of Veterans Affairs (VA) Compensation or Pension to Receive Military Pay and Allowances), 22 July 2020
- Defense Finance and Accounting Service (DFAS) Letter of Indebtedness, 1 April 2022
- Defense Finance and Accounting Service (DFAS) Letter of Indebtedness, 21 February 2023

FACTS:

1. The applicant states, in pertinent part, she is being charged for a debt in the amount of \$6,109.00 which is being billed in error. DFAS notified her that the finance department from her unit put a debt on her pay because she was receiving military pay and Veterans Affairs (VA) benefits at the same time. She voluntarily waived her military pay so that she could only complete drill for points. Her pay history from her unit confirms that she was not paid by the military and the VA in Fiscal Year 2019 (FY19). Neither she nor her unit admin was aware of where the debt originated from. Therefore, all evidence shows the debt is listed in error.

2. A review of the applicant's available service record reflects the following:

- a. On 22 September 2007, she enlisted in the U.S. Army Reserve for a period of 8 years.
- b. DA Form 4836 (Oath of Extension of Enlistment or Reenlistment) dated 11 September 2019 shows she extended her enlistment for a period of 6 months.
- c. DA Form 4836, dated 3 February 2020 shows she extended her enlistment for a

period of 1 year.

d. On 8 June 2020, a Physical Evaluation Board convened finding her physically unfit and recommending permanent disability retirement with a rating of 100 percent.

3. The applicant provides the following:

a. TL History dated 21 July 2020 showing her participation on event dates ranging from 22 March 2019 to 15 September 2019.

b. VA Form 21-8951, dated 22 July 2020 requesting correction to the number of training days attended for FY19 to reflect 3 days.

c. DFAS Letter of Indebtedness, dated 1 April 2022 showing her total balance owed with interest in the amount of \$7,467.76.

d. DFAS Letter of Indebtedness, dated 21 February 2023 showing her updated balance due in the amount of \$6,109.23. The remarks section shows a debt for the Servicemembers Group Life Insurance and payment for drills that her unit later determined she was not entitled to. She was drilling for points only and not entitled to pay.

4. The Office of the Deputy Chief of Staff, G-1, Program Analyst, Compensation and Entitlements Division, provided an advisory opinion recommending disapproval of the applicant's request stating, in effect, after careful review of the information provided, they recommend this case be disapproved for records correction and debt relief. Based on input by the reserve unit, the applicant elected to waive military pay for FY17 on VA Form 21-8951. She erroneously received pay during FY17; therefore, the unit established the debt to collect the overpayment. There is no evidence that she made restitution to warrant changing the record.

5. On 29 August 2023, the applicant was provided with a copy of the advisory opinion to provide a response.

6. On 30 August 2023, she provided a rebuttal to the advisory stating, in effect, she never received any payments from the VA until 1 June 2017. The total debt of \$7,000.00 does not add up to the number of days she drilled, being compensated at \$100.00 per day for 1 weekend per month. In support of her rebuttal, the following documents were re-submitted as additional evidence:

a. DFAS Letter of Indebtedness Account Statement, dated 21 March 2023.

b. Unit TL dated 13 April 2022.

**BOARD DISCUSSION:**

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, military record, and regulatory guidance. Documentation shows that the applicant elected to waive military pay for fiscal year 2017 (FY17) as reflected in her election on VA Form 21-8951 showing she received pay for 3 training days and elected to waive military pay and allowances for the days indicated in order to retain her VA compensation or pension. However, as she erroneously received pay, she incurred a debt. Although the Board agreed that the erroneous payment was not her fault, that did not relieve her of the responsibility to take corrective action to see that it was properly repaid. After due consideration of the applicant's request, the Board determined the evidence presented does not meet the burden of proof in determining the existence of an error or injustice and a recommendation for relief is not warranted.

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 and remission of her outstanding debt is not warranted.

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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. Department of Defense Financial Management Regulation states:

a. Paragraph 5.2.1 – debt collection offices (DCO) must issue the initial debt notification letter to the debtor within 5 working days following final confirmation of the existence and validity of the debt, the basis of indebtedness, and the amount of the debt. Only one due process debt notification is required to be issued to the debtor. DCOs may issue additional demand for payment letters at 30-day intervals after the date of the initial debt notification letter when deemed appropriate by the DCO.

b. Paragraph 5.2.2 - DCOs must exercise care to ensure the debt notification letter is dated the same day the letter is mailed, via the U.S. Postal Service (USPS), to the debtor's last known address or hand-delivered to the debtor. The DCO is required to retain a copy of the debt notification letter as part of the debtor's file. Salary and/or administrative offset may only begin after due process has been provided to the debtor. A DCO is not prohibited from issuing a written demand for payment to the debtor prior to issuing the more formal due process debt notification letter. A demand for payment is typically an abbreviated written request for voluntary repayment of the debt and is not considered sufficient notice of due process. A demand for voluntary repayment may be issued electronically to the debtor, while the formal debt notification must be delivered by the USPS.

2. Army Regulation 600-4 (Remission or Cancellation of Indebtedness) provides policy and instructions for submitting and processing packets for remission or cancellation of indebtedness to the U.S. Army. Requests for remission or cancellation of indebtedness must be based on injustice, hardship, or both. A Soldier's debt to the U.S. Army may be remitted or canceled on the basis of this regulation in cases arising from debts incurred while serving on active duty or in an active status as a Soldier.

//NOTHING FOLLOWS//