

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 August 2024

DOCKET NUMBER: AR20230004439

APPLICANT REQUESTS: cancellation of debt assessed by Defense Finance and Accounting Service (DFAS) in the amount of \$362.11.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 31 (Request and Authority for Leave)
- Installation Clearing Record
- Army Master Military Pay Account (MMPA) printout (13 pages)
- Three (3) Leave and Earnings Statement (March – May 2005)

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 received a letter of debt informing him that he was overpaid after separating from the Armed Forces and that he took more leave days than he accrued. This resulted in a negative leave balance.
3. The applicant provides:
 - a. DA Form 31 which reflects he requested Terminal Leave from 4 March 2005 to 1 April 200. Item 9a (Number of Days Leave - Accrued) reflects "28" and in item 9b (Number of Days Leave – Requested) reflects "28." The applicant was signed out on 4 March 2005 by the Staff Duty Noncommissioned Officer.
 - b. Installation Clearing Record reflects the applicant was cleared through the Military Pay Office (Travel Pay Proc, Separation Pay Proc, Debt Processing) by Ms. E.A.H. on 4 March 2005, as evidenced by her signature and the Finance stamp.

c. MMPA printout (13 pages), dated 28 June 2005, contains the applicant's military pay history and three (3) Leave and Earnings Statements for the months of March 2005 thru May 2005.

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

a. He enlisted in the Regular Army on 2 April 2002 for 3 years. He served in Kuwait/Iraq from 6 September 2003 to 29 September 2004.

b. He was honorably released from active duty on 1 April 2005. His DD Form 214 (Certificate of Release or Discharge from Active Duty) he was released under the provisions of Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations), chapter 4, completion of required active service, with a separation code of MBK, and a reentry code 1. He served 3 years of net active service this period.

5. Department of the Army Office of the Deputy Chief of Staff, G-1 memorandum, signed 4 January 2024, Subject: Advisory Opinion, states:

a. Based on a careful review of this case, we recommend the board disapprove the applicant's application for cancellation/remission of his debt in the amount of \$362.11. The applicant's debt is valid based on the 29 days of chargeable terminal leave taken from 4 March 2005 through 1 April 2005.

b. On the date of his separation on 1 April 2005, the applicant had a leave balance of 57 days. He took 58 days of leave from 1 - 29 October 2004 and 4 March 2005 through 1 April 2005, causing an excess leave debt on his account.

c. The applicant's April 2005 leave and earning statement shows a leave balance of 1.5 days. Since the applicant separated April 1, 2005, he would not earn 2.5 days of leave for April, resulting in a negative leave balance of one day. He is also charged an additional one-half day of leave that he did not earn due to excess leave.

6. The applicant was notified of the advisory opinion provided by the Department of the Army Office of the Deputy Chief of Staff, G-1. He was afforded the opportunity to submit comments on the advisory opinion; however, as of the date of this writing, none have been received.

7. AR 600-4 (Remission or Cancellation of Indebtedness) in accordance with 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:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant was separated on 1 April 2005. On that date, he had a leave balance of 57 days. He took 58 days of leave from 1 - 29 October 2004 and from 4 March 2005 through 1 April 2005, causing an excess leave debt on his account. His April 2005 LES shows a leave balance of 1.5 days. Since he separated 1 April 2005, he would not have earned 2.5 days of leave for April, resulting in a negative leave balance of one day. He is also charged an additional one-half day of leave that he did not earn due to excess leave. The Board agreed with the advisory official that the applicant's debt is valid. He has not shown an error or an injustice.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	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.

[REDACTED]

[REDACTED]

[REDACTED]

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//