

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 December 2023

DOCKET NUMBER: AR20230005209

APPLICANT REQUESTS:

- remission of debt in the Army National Guard
- a personal appearance before the Board via video/telephone

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored letter
- Defense Finance and Accounting Service (DFAS) letter, 3 February 2023

FACTS:

1. The applicant states in pertinent part that he is in receipt of a letter from DFAS advising him of a garnishment action being initiated. He denies the debt validity and notes that DFAS received a return receipt of the letter of notification with indication that it was undeliverable because the address was invalid. He has disputed this debt with the credit agencies but has not received a response as to the validity of the debt or a justification for it. Further, he denies previous receipt of an overpayment following his release from military service.

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

a. On 23 December 2013, the applicant enlisted in the Army National Guard (ARNG) to serve as a 91B (Wheeled Vehicle Mechanic) for 8 years (6x2) with entitlement to a \$10,000.00 Non-Prior Service Enlistment Bonus to be paid in 3 increments: 50 percent upon completion of Advanced Individual Training (AIT) and verification of qualification in both Standard Installation/Division Personnel Systems (SIDPERS) and the Information Management and Reporting Center/Guard Incentive Management System, 25 percent processed on the 3rd year anniversary of his enlistment date and 25 percent processed on the 5th year anniversary of his enlistment date. National Guard Bureau (NGB) Form 600-7-1-R-E (Annex E to DD Form 4 Non-Prior Service Bonus Addendum ARNG of the U.S.), Section VI (Termination) provides that termination of the incentive eligibility with recoupment may occur if the applicant is

discharged with a SIDPERS discharge code related to a reason for Suspension of Favorable Personnel Action (SFPA) flag in which the case is not closed favorably prior to discharge. The effective date of the termination is the date the flag was initiated.

b. On 7 April 2014, the U.S. Army Installation Management Command issued Orders Number 097-503, awarding the applicant's Military Occupational Specialty 91B, effective upon his successful completion of the 91B course.

c. On 25 September 2015, the applicant was discharged from the ARNG in accordance with National Guard Regulation (NGR) 600-200 (Enlisted Personnel Management), paragraph (6-35i.(1)) (Alcohol or Other Drug Abuse). NGB Form 22 (Report of Separation and Record of Service), item 18 (Remarks) provides that the applicant's previously received Selected Reserve Incentive Program bonus was terminated with recoupment effective 25 September 2015. Item 24 (Character of Service) reflects "General- Under Honorable Conditions." Item 26 (Reenlistment Eligibility) reflects "RE-3 (Not Qualified for Continued Service but waiverable)."

d. On 30 September 2015, the DEARNG issued Orders Number 273-500, discharging the applicant from military service in accordance with NGR 600-200, paragraph (6-35i.(1)), effective 25 September 2015.

3. The applicant provides a DFAS letter, dated 3 February 2023, reflective of the applicant being advised that after a review of his records, it was determined that he was not provided due process because all correspondences notifying him of the debt were returned as undeliverable; therefore, a request to terminate administrative wage garnishment was forwarded to the Treasury Department. However, this did not mean that the debt was invalid, but that the debt account would be returned to the Defense Debt Management System for collection. That applicant was advised to contact the Debt Claims Customer Care Center to arrange repayment of the debt.

4. On 7 July 2023, DFAS provided justification in support of the applicant's debt. DFAS notes that the applicant originally had an out of service debt for \$2,777.78 due to the recoupment of the unearned portion of his enlistment bonus. The applicant has paid \$2,638.20 with a remaining \$179.69 owed. The applicant may owe an additional amount since his debt was deferred to a private collection agency.

BOARD DISCUSSION:

1. The applicant's request for a personal appearance hearing was carefully considered. The Board determined the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

2. 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 applicant enlisted in the ARNG on 23 December 2013 and agreed to serve 6 years in the ARNG in exchange for a \$10,000 bonus. He was discharged with a general discharge on 25 September 2015, in accordance with paragraph 6-35(i) of NGR 600-200 due to Alcohol or Other Drug Abuse. His bonus was accordingly terminated effective 25 September 2015. The Board agreed that since the applicant did not fulfill his commitment, recoupment of the bonus was appropriate and that the DFAS collection is valid.

BOARD VOTE:

| <u>Mbr 1</u> | <u>Mbr 2</u> | <u>Mbr 3</u> | |
|--------------|--------------|--------------|----------------------|
| : | : | : | 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.

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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. Army Regulation (AR) 601-210 (Regular Army and Army Reserve Enlistment Program), Paragraph 10-8 (Termination of Incentives) provides that incentive eligibility will be stopped when a Soldier becomes an unsatisfactory participant, fails to become MOS qualified, voluntarily moves to a non-bonus unit or separates from a SELRES unit or the IRR of the AR or ARNGUS for any reason. Separation includes failure to participate satisfactorily in required training during the entire period of service agreed to in accordance with the written agreement, unless the failure to participate satisfactorily was due to reasons beyond the control of the member (that is, death, injury, illness, or other impairments). Paragraph 10-9 provides that when relief is not granted through the waiver process from incentives received, the member must refund a pro-rata amount to the Government. All debts to the U.S. Government will be submitted for collection from SELRES and Ready Reserve members. Delinquent repayment(s) will result in the collection of interest on the remaining balance. All debts to the U.S. Government will be submitted for collection from SELRES and Ready Reserve members. Delinquent repayment(s) will result in the collection of interest on the remaining balance. The recoupment amount is based on the following formula: Basic incentive received multiplied by the basic obligated months not completed divided by total obligated months in a contract (e.g., 72 months is total obligated months in a 6-year contract).
2. DOD Instruction 1205.21 (Reserve Component Incentive Programs Procedures), currently in effect, requires each recipient of an incentive to sign a written agreement stating the member has been advised of, and understands the conditions under which continued entitlement to unpaid incentive amounts shall be terminated and which advance payments may be recouped. The agreement must clearly specify the terms of the Reserve Service commitment that authorizes the payment of the incentive.
3. AR 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.
4. AR 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, applicant's do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//