

IN THE CASE OF: ██

BOARD DATE: 3 April 2024

DOCKET NUMBER: AR20230006007

APPLICANT REQUESTS: payment of the second portion (\$5,000) of his (\$20,000) non-prior service enlistment bonus (PSEB) in the U.S. Army Reserve.

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

DD Form 149 (Application for Correction of Military Record)

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 he requests the Board to review his eligibility in receiving, the second portion of his enlistment bonus or \$5000.00 while stationed with his Reserve unit, the 228th Combat Support Hospital at Fort Sam Houston. He believes the record to be in error because Captain ██████████ and Sergeant ██████████ refused to furnish him with the necessary service so that one could fulfill his contract obligation until 26 March 2016.
3. Review of the applicant's service records shows:
  - a. He enlisted in the U.S. Army Reserve (USAR) on 27 March 2008 for 8 years. He agreed to serve 6 years in the Selected Reserve. He enlisted for the Non-Prior Service Enlistment Bonus (\$20,000), Non-Prior Service MGIB Kicker, and the Student Loan Repayment Program.
  - b. The applicant's Non-Prior Service Enlistment Bonus Addendum shows he enlisted for assignment to the following unit: 228th Combat Support Hospital (CSH), Fort Sam Houston for assignment in military occupational specialty (MOS) 68M, Nutrition Care Specialist, which is authorized by Headquarters, Department of the Army for bonus entitlement. He agreed and/or acknowledged:

(1) He is enlisting for 6 years in the USAR and agrees to serve my initial 6 years in a bonus unit, or in a bonus MOS, unless excused for the convenience of the Government, to include normal career progression. He must serve satisfactorily, as prescribed by USAR regulations, unless excused for the convenience of the Government.

(2) Initial payment of 50% of the total authorized bonus amount entered in paragraph 1 above after receiving his high school diploma, completing initial active duty for training, and qualifying in the MOS.

(3) The remaining unpaid portion of the Non-Prior Service Enlistment Bonus is paid in two subsequent payments of 25% of the total bonus amount paid upon the successful completion of the 2nd and 4th year of the enlistment term of service.

(4) His entitlement to the enlistment bonus will be terminated should any of the following conditions occur before the fulfillment of his enlistment agreement and obligation. Should he--

- Become an unsatisfactory participant per AR 135-91. This could result in a recoument action as explained in section VIII below.
- Be separated from my status as an enlisted soldier assigned to a unit of the Selected Reserve, for any reason, except when separated for an authorized period of nonavailability or entry on AD or FTNGD (Full Time National Guard) in an AGR (Active Guard Reserve) status.

c. He entered active duty from 14 April 2008 to 19 November 2008 and completed training for award of MOS 68M.

d. The complete facts and circumstances surrounding his discharge from the USAR are not available for review. However, on 25 September 2012, Headquarters, 63rd Regional Support Command published Orders 12-269-00197 discharging him from the USAR effective 2 October 2012, in accordance with Army Regulation 135-178 (Enlisted Administrative Separations) with a general, under honorable conditions discharge.

e. His DA Form 5016 (Chronological Statement of Retirement Points) shows he completed 2 years of qualifying service towards non-regular retirement.

4. The U.S. Army Reserve Command (USARC) provided an advisory opinion on 26 September 2023 in the processing of this case. The advisory official stated:

a. The applicant enlisted into the United States Army Reserve (USAR) on 27 March 2008 for a six-year term with a \$20,000 Non-Prior Service Enlistment Bonus (NPSEB), \$20,000 Student Loan Repayment Program (SLRP) incentive, and \$350 Montgomery

GI Bill Kicker in Military Occupational Specialty 68M, Nutrition Care Specialist. The 228TH Combat Support Hospital declared the applicant an unsatisfactory participant when he accumulated 22 unexcused absences from 7 December 2008 to 14 November 2009; as a result, the USAR Pay Management Team did not process the applicant's NPSEB.

b. Army policy requires the termination and recoupment of a Soldier's incentives when they accumulate nine or more unexcused absences within a 12-month period. Additional research revealed that on 31 March 2010, the applicant's unit flagged him for Drug Abuse Adverse Action. Army policy prohibits flagged soldiers from receiving favorable actions, including incentive payments. In addition, the applicant accumulated 89 unexcused absences from 7 December 2008 to 9 September 2012. The 63rd Regional Support Command published the applicant's discharge order effective 2 October 2012; the discharge type was Under Honorable Conditions (General). The applicant forfeited any entitlement to his enlistment incentives when he accumulated his ninth unexcused absence on 10 April 2009. The applicant's attendance record, in conjunction with the Drug Abuse Adverse Action flag, shows a clear intent not to honor his USAR enlistment obligations satisfactorily.

c. Based on the current information provided in this case, the United States Army Reserve Command (USARC) G-1 recommends no relief.

5. The applicant was provided and responded to the advisory opinion. He stated after reviewing this letter, he is unable to find where the 228th CSH Unit made any attempt to support him by way of rehabilitation. Instead, those in command devised a scheme, to have him discharged from the United States Armed Forces, under general conditions. In addition to denying incentives that one was granted upon enlistment and recoupment of funds. He is not in agreement with this decision and wishes to appeal in the form of a grievance. He asks the Board to advise him with the grievance process.

6. Army Reserve Soldiers on active-duty status with no prior service or those with prior service who meet the critical skill, term of service, and other specific eligibility requirements may be eligible for certain bonus opportunities. Non-Prior Service recruits enlisting in the Army Reserve for 6 years in a specified job skill specialty may be eligible for a bonus or a combination of bonuses up to \$20,000.

#### 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 record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and

Headquarters U.S. Army Reserve Command, the Board concurred with the advising official finding the applicant was declared an unsatisfactory participant by his unit after accumulating 22 unexcused absences during the timeframe of December 2008 to November 2009. As noted by the opine, per regulatory guidance termination and recoupment of incentives occurs when there are nine or more unexcused absences.

2. The Board noted in addition, the applicant was flagged by the unit for drug abuse adverse actions. The Board determined, based on regulatory guidance flagged Soldiers are prohibited from receiving favorable actions to include incentive payments. Evidence in the records showed the applicant accumulated 89 unexcused absences, as such forfeited any eligible entitlements to his enlistment incentives due to exceeding over nine unexcused absences. The Board agreed there is insufficient evidence that warrants payment of the applicant’s second portion (\$5,000) of his (\$20,000) non-prior service enlistment bonus (PSEB) in the U.S. Army Reserve. Therefore, the Board denied relief.

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.

5/14/2024

X [REDACTED]

CHAIRPERSON  
[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, U.S. 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 ABCMR determines it would be in the interest of justice to do so.
2. The Selected Reserve Incentive Program (SRIP) for Fiscal Year 2012 authorize a \$20,000 non-prior service enlistment bonus Army Reserve Soldiers on active duty status with no prior service or those with prior service who meet the critical skill, term of service, and other specific eligibility requirements may be eligible for certain bonus opportunities. military occupational specialty (MOS) 68M, Nutrition Care Specialist, was authorized by Headquarters, Department of the Army for bonus entitlement.
3. Title 37 U.S. Code § 308 - Special pay: prior/non-prior service enlistment bonus:
  - a. A member who agrees to train and reenlist for service in a military skill which, at the time of that agreement, is designated as critical, may be paid the bonus approved for that skill, at the rate in effect at the time of agreement, upon completion of training and qualification in that skill, if otherwise qualified under this subsection and even if that skill is no longer designated as critical at the time the member becomes eligible for payment of the bonus.

b. A person who enters into an agreement and receives all or part of the bonus under the agreement, but who does not commence to serve in the Selected Reserve or does not satisfactorily participate in the Selected Reserve for the total period of service specified in the agreement, shall be subject to the repayment provisions.

4. Title 37 U.S. Code § 303a - Special pay: general provisions. Except as provided in paragraphs (2) and (3), a member of the uniformed services who receives a bonus or similar benefit and whose receipt of the bonus or similar benefit is subject to the condition that the member continue to satisfy certain eligibility requirements shall repay to the United States an amount equal to the unearned portion of the bonus or similar benefit if the member fails to satisfy the eligibility requirements and may not receive any unpaid amounts of the bonus or similar benefit after the member fails to satisfy the requirements, unless the Secretary concerned determines that the imposition of the repayment requirement and termination of the payment of unpaid amounts of the bonus or similar benefit with regard to the member would be contrary to a personnel policy or management objective, would be against equity and good conscience, or would be contrary to the best interests of the United States.

//NOTHING FOLLOWS//