

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 8 May 2024

DOCKET NUMBER: AR20230010281

APPLICANT REQUESTS: cancellation of his Reserve Officers' Training Corps (ROTC) scholarship indebtedness in the amount of \$14,670.50.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 597-3 (Army Senior Reserve Officers' Training Corps (ROTC) Scholarship Cadet Contract)
- U.S. Army Advanced Education Financial Assistance Record
- Addendum to Part I Scholarship Contractual Agreement
- Georgia Southern University Memorandum, Subject: Notification of Disenrollment from the ROTC – Due Process and Appellate Rights of Scholarship/Non-scholarship – Cadet J- H- (the applicant)
- Headquarters (HQs), U.S. Army Cadet Command (USACC) and Fort Knox Memorandum, Subject: Disenrollment from the U.S. Army ROTC Program
- DD Form 139 (Pay Adjustment Authorization)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)

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 has an education debt from the Defense Finance and Accounting Service originating from the Army from his ROTC disenrollment from the program in 2014. He enlisted in the U.S. Air Force and served 6-years. He requests the termination of his indebtedness since he served on active duty.
3. A review of the applicant's service record shows:

4. The applicant's service record is void of his DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) for his enlistment in the U.S. Army Reserve (USAR).

5. On 3 October 2011, the applicant signed a DA Form 597-3 which states in:

a. Part I (Agreement of the Department of the Army), the Army agreed to pay 4 academic years of scholarship benefits for full tuition and fees. The applicant agreed to enlist in the USAR ROTC program and enroll in all necessary courses and successfully completed the requirements for a degree. He also agreed to remain enrolled in and successfully complete the ROTC program as a prerequisite for commissioning.

b. Part II (Agreement of Scholarship Cadet Contracting in the Senior ROTC Program): He understood that as a condition of receiving his ROTC scholarship he would incur an active duty and/or reimbursement obligation after the first day of his Military Science III year. Terms of Disenrollment, once he became obligated and was disenrolled from the ROTC program for breach of contractual terms or any other disenrollment criteria, he would be subject to:

(1) Serve on enlisted active duty if the Secretary of the Army ordered him to active duty as an enlisted Soldier for a period of not more than 4-years if he failed to complete the ROTC program.

(2) Reimburse the U. S. Government, if offered the opportunity to repay the advanced educational assistance in lieu of being ordered to active duty. He would be required to reimburse the U. S. Government through repayment of the amount of money plus interest equal to the entire amount of financial assistance.

(3) Failure to complete required service obligation, if he voluntarily or because of misconduct failed to begin or failed to complete any period of active duty or duty he incurred under the contract whether as an officer or an enlisted Soldier, he would be required to reimburse the amount of money plus interest equal to or bears the same ratio to the total cost of the financial assistance provided as the unserved portion of such duty to the total period of duty obligated to serve.

(4) He agreed that any obligation to reimburse will not be altered by subsequent enlisted duty. If he was required to repay the advanced educational assistance under the terms of the contract, he subsequent enlistment in the Armed Forces would not relieve him from the repayment obligation.

6. The U.S. Army Advanced Education Financial Assistance Record dated 6 September 2013 shows the applicant received \$14,670.50 in tuition, fees, room and board, books and supplies in fiscal years 2012 and 2013.

7. On 10 January 2014, the applicant promised to repay the total amount owed, \$14,670.50 in monthly installments plus interest.
8. On 23 June 2014, the applicant's Professor of Military Science (PMS) notified him of the initiation of his disenrollment from the ROTC program based on his failure to maintain enrollment in military science classes which constituted a breach of the terms of the ROTC contract with the U.S. Army. If disenrolled as a scholarship cadet he may be called to enlisted active duty or be required to repay any bonus, incentives and/or scholarship benefits in the amount of \$14,670.50 in lieu of call to active duty.
9. On 25 September 2014, the commander of the USACC notified the applicant he was disenrolled and discharged from the ROTC program due to a breach of his ROTC contract based on his failure to maintain enrollment in military science courses. As a breach of the ROTC contract any obligation to the Army must be satisfied by repaying the cost of advanced education assistance provided by the Army in the amount of \$14,670.50.
10. On 12 November 2014, a pay adjustment authorization was submitted to the Defense Finance and Accounting Service to authorize the applicant be charged the amount of \$14,670.50 for scholarship tuition recoupment.
11. The applicant provides his DD Form 214 shows he entered active duty in the U.S. Air Force on 23 November 2015. He was honorably released from active duty on 22 November 2021 and assigned to the U.S. Air Force Reserve. DD Form 214 shows the applicant completed 6-years of active service.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was 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, the Board Determined on 25 September 2014, the applicant was disenrolled and discharged from the ROTC program due to a breach of his ROTC contract based on his failure to maintain enrollment in military science courses. Evidence shows the applicant enlisted into the U.S. Air Force on 23 November 2015 and served honorably for a period of six years.
2. The Board determined the applicant met his recoupment obligation with his enlistment into the Air Force of which he was honorably released from active duty after a period of six years. The Board agreed cancellation of the applicant's Reserve Officers'

Training Corps (ROTC) scholarship indebtedness in the amount of \$14,670.50 is warranted. Therefore, the Board granted relief.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by notifying DFAS that the applicant's debt in the amount of \$14,670.50 has been relieved that was established due to his military service.

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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, USC, 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. Army Regulation (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 based on this regulation in cases arising from debts incurred while serving on active duty or in an active status as a Soldier.

3. AR 145-1 (Senior Reserve Officers' Training Corps Program: Organization, Administration, and Training), in effect at the time, prescribes policies and general procedures for administering the Army's Senior ROTC Program.

a. Paragraph 3-39 (Termination of scholarship and disenrollment), the Commanding General, ROTC Cadet Command, is the approving authority for termination of scholarship and/or disenrollment. A scholarship will be terminated, and the cadet disenrolled for any of the reasons listed in paragraph 3-43.

b. Paragraph 3-43 (Disenrollment), a. A scholarship cadet may be disenrolled only by the CG, ROTCCC. Disenrollment authority does not include the discharge authority for Simultaneous Membership Program participants. Scholarship cadets will be disenrolled for the following reasons: Subparagraph (16) Breach of contract (including formerly used term willful evasion). (Note: Breach is defined as any act, performance or nonperformance on the part of a student that breaches the terms of the contract regardless of whether the act, performance or nonperformance was done with specific intent to breach the contract or whether the student knew that the act, performance or nonperformance breaches the contract).

c. Paragraph 3-44 (Discharge and separation from the U.S. Army Reserve), a. The CG, ROTCCC, is the only authority for discharge of scholarship cadets. ROTC cadets normally will be honorably discharged on the date of disenrollment from the ROTC program, except those ordered to active duty under the terms of their ROTC contract. c. Upon disenrollment from the ROTC, a cadet assigned to Control Group (ROTC), who is not ordered to active duty or pending such an order and has previously completed a basic training course conducted by a U.S. Armed Force, will be transferred to the Individual Ready Reserve if the military service obligation has not been met. A cadet assigned to Control Group (ROTC) who is not ordered to active duty or pending such an order and has no previous military service, or who has not completed a basic training course, will be discharged. The effective date of discharge or transfer will be the date of disenrollment from the ROTC. e. Cadets called to active duty for breach of the terms of their ROTC contract will serve periods of active duty as specified in their contract.

4. Title 10, USC, section 2005 (Advanced education assistance: active-duty agreement; reimbursement requirements), provides that the Secretary concerned may require, as a condition to the Secretary providing advanced education assistance to any person, that such person enter into a written agreement with the Secretary concerned under the terms of which such person shall agree:

a. That if such person does not complete the period of active duty specified in the agreement, or does not fulfill any term or condition prescribed, such person shall be subject to the repayment provisions of Title 37, USC, section 303a(e); and

b. To such other terms and conditions as the Secretary concerned may prescribe to protect the interest of the United States.

//NOTHING FOLLOWS//