

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 April 2024

DOCKET NUMBER: AR20230010547

APPLICANT REQUESTS: remission of his debt

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

- DD Form 149 (Application for Correction of Military Record)
- Statement for Enlistment U.S. Army Enlistment Program
- Letter from U.S. Army Human Resources Command
- Letter to Loan Holder
- DD Form 2745 (Department of Defense (DoD) Education Loan Repayment Program Annual Application)
- AR20050009078 Record of Proceedings
- Letter from the Army Board for Correction of Military Record (ABCMR)
- ABCMR Request for Administrative Relief

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:

a. He has a debt from his Reserve Officers' Training Corps (ROTC) contract. He received a notice from Defense Finance and Accounting Service (DFAS) 18 years later to pay off a debt he is not aware of. Not only did it take them 18 years to send him a notice, but they also charged him interest. The ABCMR rendered a decision on 28 November 2005 granting him full relief.

b. He is not sure why this is all of a sudden a problem and his problem to deal with once again. He has enough stress and anxiety in his life to open mail from DFAS stating he owes a debt of \$3,401.80 that had been forgiven.

c. The applicant does not understand how something like this just shows up 18 years later and he is the one filling the paperwork out hoping he is right or that the paperwork he holds in his possession has not disappeared on the other end.

d. To the Board, just imagine the feeling of doubt and unrighteousness the applicant is going through right now. What if he did not keep good records of all of his paperwork filed or received in the Army? He would be once again feeling like a little fish in a big pond with no clue who to talk to to fix this.

3. The applicant provides the following documents:

a. Letter from U.S. Army Human Resources Commend (AHRC), undated, subject DoD Educational Loan Repayment Program Annual Application, which states a DD Form 2475 must be completed to receive a payment on his student loan. The entire letter is available for the Board's consideration.

b. Letter from the ABCMR, dated 28 November 2005, in regard to AR20050009078. The ABCMR rendered a decision on the applicant's application to correct military records. Full relief to the applicant's request was granted.

c. ABCMR Request for Administrative Action to AHRC, dated 28 November 2005 requesting necessary administrative action, as granted in AR20050009078, be taken to effect the correction of records as indicated.

4. The applicant's service record contains the following documents:

a. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows the applicant enlisted in the Delayed Entry Program on 23 January 2004 and entered active duty in the Regular Army on 20 July 2004 to serve a 3 year and 16 week active duty obligation.

b. Statement for Enlistment United States Enlistment Program, dated 20 July 2004 shows the applicant was enlisting in the Army with the U.S. Army High Grad Bonus (60+ Semester Hours) in the military occupational specialty (MOS) of 11X (Infantry Recruit). He was authorized a bonus in the amount of \$6,000.

c. Enlisted Record Brief, dated 3 February 2009 shows the applicant's MOS was 11B (Infantryman).

d. A DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant was honorably transferred the applicant to U.S. Army Reserve (USAR) Control Group (Reinforcement) for completion of required active service. He had completed 4 years, 8 months, and 14 days of net active duty service. He had been retained in

service for 514 days for the convenience of the government served both in Afghanistan and Iraq. His authorized awards include the Purple Heart and the Combat Infantryman Badge.

e. Orders D-01-201058, published by AHRC, dated 24 January 2012 honorably discharged the applicant from the USAR Control Group (Reinforcement) effective 24 January 2012.

5. In the applicant's previous case, AR20050009078, the record of proceedings (ROP), dated 22 November 2005 shows the applicant requested his debt for not completing the requirement of his ROTC scholarship be forgiven based on his enlistment in the active Army. The ROP states:

a. The applicant was disenrolled from the ROTC program and selected to repay the debt in monthly installments. A debt in the amount of \$11,271.44 was established by DFAS.

b. The applicant enlisted in the Regular Army on 20 July 2004 and received an enlistment bonus of \$6,000.

c. The record shows that as a result of the applicant's three-year enlistment, the Army is getting the benefits of his service for the same period he would have served had he been ordered to active duty as a result of breaching his ROTC contract. Had he elected the expeditious call to active duty to repay his debt for breaching his ROTC contract, he would have been assigned against the needs of the Army, in pay grade E-1, and not allowed any enlistment options. However, the applicant enlisted in the Army in the pay grade of E-4 and was authorized a \$6,000 enlistment bonus. The prospect of negating this debt for a free education he received from the Army without becoming an officer, plus allowing him to receive an enlistment/reenlistment bonus would be a windfall.

d. In view of the facts of this case, it would be appropriate to consider his enlistment in the Army to have met the active duty obligation required by his ROTC scholarship contract as a matter of equity. If he failed to complete his period of enlistment service obligated as a result of his ROTC scholarship either voluntarily or because of misconduct, his ROTC debt should be required to be recouped on a prorated basis.

e. The Board vote was to grant full relief. The Board states they determined the evidence presented was sufficient to warrant a recommendation for relief. As a result, the Board recommended that all of the Department of the Army records of the applicant be corrected by amending his ROTC scholarship contract to show that he would satisfy his ROTC scholarship debt of \$11,271.44 under the original terms of the ROTC contract by successfully completing his enlistment in the Regular Army minus the \$6,000

enlistment bonus he received in conjunction with his 23 January 2004 enlistment in the Regular Army. The entire case is available for the Board's consideration.

6. An undated letter from DFAS to the applicant states they applied the net entitlement of \$5,271.44 due to him from the correction of records toward the debt. The amount presupposed that taxes would be withheld from the \$11,271.44 awarded by the directive. In cases of this sort, DFAS did not collect taxes and so must offset the entire \$6,000 the applicant received as an enlistment bonus.

7. On 22 March 2024 DFAS responded to a request from the analyst of record regarding the applicant's debt. DFAS states a review of the ABCMR decision shows the decision of the Board was to grant full relief of the \$11,271.44 ROTC debt minus the \$6,000 enlistment bonus the applicant received. The debt the applicant currently has is based off of the \$6,000 that was not cancelled by the Board decision.

8. A Military Pay and Allowance Voucher, dated 21 March 2024 shows the applicant owed a total of \$11,271.44 less his bonus amount of \$6,000 and DFAS paid \$5,271.44 of the original debt.

9. On 28 March 2024, DFAS clarified their email from 22 March 2024 stating the applicant's current balance owed is \$3,311.25. He has paid \$2,688.75 in debt of that \$113.64 was interest/penalty/administrative fees.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.

2. The Board found that the Board's original determination was made before the full facts of the applicant's service unfolded. Although the Board's original determination appropriately granted relief that accounted for the enlistment bonus the applicant would not have received if he had been ordered directly to active duty upon disenrollment from ROTC, the Board could not have anticipated the operational contingencies that led to the applicant serving on active duty for the convenience of the government well beyond his original contractual commitment. The Board found that this additional service time that occurred after he had fulfilled the terms of his enlistment bonus agreement is a basis for amending the Board's original decision. The Board determined the applicant's record should be corrected to show he was fully relieved of his ROTC debt through his 4 years, 8 months, and 14 days of active duty service.

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 that the evidence presented was sufficient to warrant amendment of the ABCMR's decision in Docket Number AR20050009078, dated 22 November 2005. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by showing his active duty service from 20 July 2004 through 3 April 2009 fully satisfied the debt he incurred upon disenrollment from ROTC.

8/27/2024

X █

---

CHAIRPERSON

█

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. Army Regulation 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 interests of the United States. Indebtedness to the U.S. Army that may not be canceled under Title 10 USC, section 4837 when the debt is incurred while not on active duty or in an active status.

//NOTHING FOLLOWS//