

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 May 2024

DOCKET NUMBER: AR20230011106

APPLICANT REQUESTS:

- a. reconsideration of his previous request to show his Reserve Officers' Training Corps (ROTC) debt in the amount of \$16,887.61 was canceled/remitted based on his U.S. Marine Corps (USMC) service.
- b. a personal appearance before the Board via video or telephone.

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

- DD Form 149 (Application for Correction of Military Record)
- NAVMC Form 763 ((U.S. Marine Corps Appointment Acceptance Record), 10 August 2019
- DD Form 214 (Certificate of Release or Discharge from Active Duty), ending 9 August 2023

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20190011868 on 8 June 2020.
2. The applicant states, in December 2017 he was disenrolled from the U.S. Army ROTC at the University of California, Davis, to commission into the USMC. As a result of his disenrollment, he incurred an educational debt from his ROTC scholarship. In August 2019 he commissioned into the USMC. He is requesting a service in lieu of debt approval as a result of serving four years of active duty in the USMC.
3. The applicant's official record is void of a DA Form 597-3 (Army Senior ROTC Scholarship Cadet Contract).

4. The applicant provides a NAVMC Form 763 showing his period of enlistment as a cadet and subsequent commissioning in the USMC on 10 August 2019.

5. On 8 June 2020, in ABCMR Docket Number AR20190011868 the Board denied the applicant's request to cancel or remit his ROTC debt in the amount of \$16,887.61 stating " The Board carefully considered the applicant's request, supporting documents and evidence in the records. The Board considered the applicant's statement, his ROTC tenure, the disenrollment memorandum reflecting the reason and the option presented to him for repayment of education debt. The Board considered his enlistment in the USMC Reserve and subsequent appointment as an officer. The Board found, as a result of his disenrollment, that the applicant was not provided the option of order to active duty service for repayment of debt and his subsequent service was in the Reserve Component. Based on a preponderance of evidence, the Board determined no evidence of error in his disenrollment and that the applicant's debt was not in error or unjust.

6. The applicant provides a DD Form 214 showing his commissioned service in the USMC from 10 August 2019 to 9 August 2023.

#### BOARD DISCUSSION:

1. The applicant's contentions, the military record, and regulatory guidance were carefully considered. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted.

2. The applicant's request for a personal appearance hearing was carefully considered. However, in this case, the evidence of record and independent evidence provided by the applicant 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.

3. The Board found, even the applicant had decided to serve in the Army instead of the Marine Corps, he was not afforded the option to go on to active duty service to repay his senior ROTC scholarship debt; the previous Board informed him of this in his earlier consideration. The Board concurred with the previous Boards decision to deny the requested 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 to amend decision of the ABCMR set forth in Docket Number ARAR20190011868, dated 8 June 2020.

[REDACTED]

[REDACTED] [REDACTED]

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[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. Army Regulation (AR) 37-104-4 (Military Pay and Allowances Policy), provides the policies and provisions for entitlements and collections of pay and allowances of military personnel. Paragraph 31-2 (Recoupment) states recoupment applies to those individuals who have signed an agreement that contains recoupment provisions. Recoupment action will be taken at transition when the personnel and finance communities identify a Soldier or cadet as being eligible for recoupment action.
2. Army Regulation 145-1 (Senior ROTC Program: Organization, Administration, and Training) prescribes policies and general procedures for administering the Army's Senior ROTC Program. Paragraph 3-43 states that non-scholarship and scholarship cadets will be dis-enrolled for a breach of contract. 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. One reason for disenrollment is a cadet's withdrawal from the academic institution.
3. Army Regulation 600-4 (Remission or Cancellation of Indebtedness) in accordance with the authority of Title 10 United States Code (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.
4. Title 10 USC, section 2005(a), states 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 under the terms of which such person shall agree:
  - a. complete the educational requirements specified in the agreement and to serve on active duty for a period specified in the agreement, and
  - b. if such person fails to complete the education requirements specified in the agreement, such person will serve on active duty for a period specified in the agreement.
5. Army Regulation 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, it states in paragraph 2-11 that applicants 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//