

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 May 2024

DOCKET NUMBER: AR20230011546

APPLICANT REQUESTS:

- Remission of debt
- Personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Notification of Eligibility for Retired Pay at Non-Regular Retirement (20 Year Letter)
- Orders 003237467.01 Amendment of Permanent Change of Reassignment
- Defense Finance Accounting Service (DFAS) Debt and Claims Document
- Letter from DFAS

FACTS:

1. The applicant states:

a. His retirement was backdated due to corrections finally being made to his service record to account for missing points and years. He had to extend in the U.S. Army Reserve (USAR) twice to have this happen. His notice of eligibility was also backdated along with his approved retirement date. While waiting for retirement, he was still made to attend drill in order to remain in good standing. He has since been issued a letter of indebtedness from DFAS.

b. The applicant has attempted to reach out to the 99th to have this corrected but to no avail. No one answers emails or phone calls. The applicant enclosed supporting documentation that shows everything was backdated. He was a 90 percent disabled veteran at the time of service. When he performed duty, his unit entered him in a pay status in order to receive points for retirement. DFAS was not processing duty performed for retirement points only. He was also instructed, by command, to continue to attend battle assemblies until he had orders for retirement. When they backdated the retirement, this caused an indebtedness to the military, something that he should not have imposed on him for following orders.

2. The applicant provides the following documents:

a. DFAS Debt and Claims document, dated 10 July 2023 shows the applicant has a previous debt of \$581.10, with \$.20 of interest charged for a total balance due of \$581.30. The debt was to recoup the period of 11 May 2022 to 13 May 2022 due to performance past his official date of separation of 5 May 2022. There was no entitlement to funds paid for periods performed past separation.

b. A letter from DFAS, dated 10 July 2023 is a final notice of indebtedness to the United States Government. The applicant's debt had been referred to the DFAS Debt Collection Management Office for collection.

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

a. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant was a member of the Regular Army from 23 March 2006 through 7 May 2014. He had completed 8 years, 1 month, and 15 days of active duty service. He was honorably discharged for completion of his required active service.

b. The applicant's enlistment documents in the USAR were not available for the Board's consideration. A DA Form 4836 (Oath of Extension of Enlistment or Reenlistment) dated 11 April 2021 shows the applicant was extending his 8 May 2014 enlistment in the USAR for a period of 1 year.

c. Memorandum Notification of Eligibility for Retired Pay and Non-Regular Retirement (20 Year Letter) dated 23 June 2022 notified the applicant he had completed the required years of qualifying Reserve service and was eligible for retired pay upon reaching age 60.

d. Orders 0003237467.01 amended order 003237467, reassignment orders for the applicant with an effective date of 2 September 2021 and reporting date of 2 September 2021. He was to report to 451 Medical Detachment. The original order was not available for the Board's consideration.

e. Orders 0004013512.00 dated 13 February 2023 transferred the applicant to the USAR Retired Reserve, effective 6 May 2022.

f. DA Form 5016 (Chronological Statement of Retirement Points), dated 8 April 2024 shows the applicant's last period of service was from 20 March 2021 through 19 March 2022. He had completed 20 years of qualifying service for retired pay.

g. There was no documentation in the applicant's service record showing he attended battle assemblies beyond his date of retirement on 6 May 2022.

4. On 29 December 2023, DFAS responded to inquiry regarding the applicant's debt. They stated the applicant had an out of service debt. The debt is to recoup the period of 11 May 202 due to performance past official date of separation of 5 May 2022. The original debt amount was \$581.10, and the applicant still owes \$433.32. There was no documentation due to the debt interfacing into their system.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted. The Board found the available evidence sufficient to consider this case fully and fairly without a personal appearance by the applicant.

2. The Board found the evidence confirms the applicant was erroneously paid for a period of duty he did not perform. The Board found insufficient evidence to support a conclusion that the resulting debt was invalid. Based on a preponderance of the evidence, the Board determined the imposition of the debt based on payment for service the applicant did not perform is not an error or an injustice.

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.

9/16/2024

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. 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 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.
2. 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, 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//