

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 June 2024

DOCKET NUMBER: AR20230012156

APPLICANT REQUESTS: correction of his record to show cancelation or remission of a \$3,688.63 debt. A personal appearance before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- Email correspondence with Defense Finance and Accounting Service (DFAS)
- Department of Treasury letter
- Leave and Earnings Statement (LES)
- DFAS letter
- DFAS Hearing letter
- Pay.gov Payment Confirmation

FACTS:

1. The applicant states, he separated from the Army on 26 September 2020, but erroneously received the \$3,688.63 for the 'additional period' of 27 September - 15 October 2020. This principal is the sum of \$3,374.43 in normal pay and \$314.20 in deferred Old-Age, Survivors and Disability Insurance (OASDI) withholdings. He immediately contacted DFAS and made repeated good faith attempts from 14 October 2020 through March 2021 via email and phone to send back the overpaid amount but was told each time that a Department of Defense (DoD) COVID-19 era policy prohibited him from doing so. He was told by DFAS that whenever this policy was lifted, he would be sent instructions in the mail on how to begin repayments. Those instructions were not transmitted by DFAS until September 2022 - a full two years after the original overpayment and 1.5 years after he was told to wait for a letter in the mail. By this point, he had already moved twice and the mail forwarding he established had expired. An injustice has occurred because he made multiple good faith efforts to repay the government and despite having his correct email (personal and DoD contractor) and phone number on file, DFAS made no attempts to contact him by the alternate and viable communication methods available to them. Consequently, they referred the

principal amount for collection to the Treasury Department which imposes an added fee of \$1,115.25). To date, he has already repaid \$3,996.31/the \$3,688.63 principal.

2. A review of the applicant's official record shows the following:

a. On 13 May 2016, the applicant was appointed as a Reserve commissioned officer and executed an oath of office with a subsequent call to active duty.

b. On 23 March 2020, Orders Number 083-0112 issued by Headquarters, III Corps and Fort Hood, reassigned the applicant to the transition point for transition processing, effective 26 September 2020, with assignment to the U.S. Army Reserve Control Group (Individual Ready Reserve) to complete his Reserve obligation.

c. On 26 September 2020, the applicant was honorably released from active duty by reason of completion of required active service. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 4 years and 1 day of net active service.

3. The applicant provides:

a. Email correspondence with DFAS showing the applicant contacted DFAS immediately after continuing to receive active duty pay and benefits after his release from active duty in September 2020. In subsequent emails he was informed by DFAS at the email address he provided. However, the debt notification was mailed 20 months later vice being attached to the email.

b. Department of Treasury letter dated 8 May 2023 which informed the applicant that a wage garnishment order had been issued. Attached were the wage garnishment worksheets and instructions to the applicant's employer.

c. LES for the period 1-30 September 2020 which shows the applicant had an advanced debt in the amount of \$3,443.06.

d. DFAS letter dated 7 July 2023 which was in response to the applicant's request for a hearing, which he was granted.

e. DFAS hearing letter wherein the applicant was informed that his debt in the amount of \$3,688.63 for collection of pay and allowances received after discharge from the U.S. Army and for deferred collection of OASDI (\$3,703.29 in base pay, \$162.56 Basic Allowance for Subsistence, .19 cents for Basic Allowance for Quarters, and \$771.21 for Basic Allowance for Housing, totaling \$4,637.25), and second debt for OASDI in the amount of \$314.20 was valid. Due to COVID-19, in March 2020, the DoD placed a temporary suspension on notifying and collecting all out of service debts in

order to provide financial relief to debtors. Once the hold was lifted the applicant was notified. The notifications were sent to his last known address. The applicant attests DFAS had his correct address (email).

f. Pay.gov payment confirmation showing the applicant completed payments in the amount of \$3,443.06, \$274.44, and \$278.81.

3. On 16 February 2024, a DFAS official provided information stating the applicant did have a debt in their system originally for \$3,688.63 plus interest/penalties/administrative fees totaling \$3,717.50. He currently has a \$0 balance and is paid in full.

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 the delays in communication with the applicant regarding his debt to have created an injustice. The Board determined the applicant's record should be corrected to show collection of the debt was cancelled and any monies he paid toward the debt should be returned to him.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	GRANT FULL RELIEF
:	:	:	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 showing collection of the debt he incurred as a result of overpayment was cancelled. As a result of this correction, any monies he paid toward the debt should be returned to him.

12/19/2024

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 (Army Board for Correction of Military Records (ABCMR)), states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. It will decide cases based on the evidence of record and it is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. Paragraph 2-11 states 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//