

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 July 2024

DOCKET NUMBER: AR20230012159

APPLICANT REQUESTS: in effect –

- remission, cancellation, or waiver of recoupment of his U.S. Army Reserve (USAR) Reenlistment Bonus contracted on 13 August 2020
- a personal appearance before the Board via telephone/video

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

- DD Form 149 (Application for Correction of Military Record)
- Orders Number D 131-07, 11 May 2022
- Email communication, December 2022
- Defense Finance and Accounting Service (DFAS) communication, 20 January 2023
- Email communication, February, April, May 2023

FACTS:

1. The applicant states:

a. His unit is trying to recoup his bonus, because they said he did not complete a good year. But they [the unit] have not proved to him what days he supposedly missed. He has reached out to his unit for them to prove to him what days he missed, and they have been less than helpful. They keep telling him that they do not know how to appeal his debt. He does not think it is right for them to try to recoup his bonus when he did everything his contract said. He has email traffic between himself and the unit showing him trying to resolve this matter.

b. He does not know the dates that are in question. If he knew the dates, he could provide the records. He finds it sad that we [servicemembers] sacrifice so much for a corrupt government and we are treated like a piece of numbered trash.

2. A review of the applicant's official records show the following:

- a. He enlisted in the USAR on 6 December 2006, and reenlisted on 3 June 2012.

b. On 8 June 2018, DA Form 4836 (Oath of Extension of Enlistment or Reenlistment) shows he extended for 2 years which changed his expiration term of service to 17 January 2021.

c. On 29 November 2019, he entered active duty for training.

d. On 6 January 2020, the U.S. Army Support Activity Joint Base Langley-Eustis published Orders Number 006-121, which awarded the applicant Primary Military Occupational Specialty (PMOS) 15U2O (CH-47 Helicopter Repairer), effective 21 April 2020.

e. On 17 April 2020, the applicant was honorably released from active-duty training and was transferred to his USAR unit in Texas. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed the 17-week CH-47 Helicopter Repairer course for MOS 15U2O.

f. On 7 August 2020, Headquarters, 63D Readiness Division (USAR) published Orders Number 20-220-00016, which awarded the applicant PMOS 15U2O, effective 21 April 2020.

g. On 13 August 2020, the applicant reenlisted in the USAR for a period of 6 years. In connection with his reenlistment, he completed and signed a Selected Reserve Incentive Program (SRIP) - USAR Selected Retention Bonus Addendum which states:

(1) He was qualified in MOS 15U, which had been approved as a bonus MOS and correlated to the unit position vacancy for which he reenlisted.

(2) Based on his Additional Obligation Service of 67 months, he reenlisted with a prorated bonus amount of \$3,400.00 in accordance with the current USAR SRIP list. His bonus would be paid in lump sum based on the current USAR SRIP list.

(3) When his entitlement to the reenlistment bonus was terminated for becoming an unsatisfactory participant per Army Regulation 135-91, he may be subject to recoupment action. USAR Policy Center determines the amount of recoupment.

h. On 29 April 2022, DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings) shows an informal PEB found the applicant physically unfit and recommended a disability rating of 70 percent for post-traumatic stress disorder and persistent depressive disorder, and his disposition be permanent disability retirement. He concurred and waived a formal hearing of his case.

i. On 11 May 2022, Headquarters, U.S. Army Physical Disability Agency published Orders Number D 131-07, which retired the applicant, effective 10 June 2022, and placed him on the permanent physical disability list, effective 11 June 2022.

3. In support of his case the applicant provides:

a. Email communication dated December 2022, between the applicant and his unit administrator, discussing a debt letter from the unit trying to recoup his bonus. DFAS said the applicant needed to reach out to the unit so he can file an appeal. He was medically retired (Army's Choice) not his. The applicant asked about what forms he needed to fill out to appeal.

b. DFAS communication dated 20 January 2023, between the applicant and DFAS, wherein DFAS states, the "VRA/FHA" the applicant submitted was not an acceptance of the debt. If he was in dispute of the debt, it is just a means of keeping his account in a status that would prevent it from being referred to a private collection agency or to the treasury offset program. To keep this status; he would have to make payments on it. Due to the nature of the debt, there was nothing DFAS can do on their end regarding a dispute. The applicant would have to contact his former finance office and if the debt adjustment/cancellation was warranted, a case must be submitted via "CMS3891." All required documents must come directly from the Defense Military Pay Office only. Once DFAS receives documentation that the debt has been cancelled or needs adjustment, the applicant would receive a refund of all moneys paid in excess of the remainder of the debt.

c. Email communication during the period of February, April, and May 2023, between the applicant and USAR 63D Special Pay Inquiry office discussing the applicant's bonus recoupment for unsatisfactory participation. Per his Drill attendance he received over "9 U's" which would Terminate with Recoupment of the Bonus. The applicant could request a proration of Debt per 37-1 5-8 attached.

4. On 10 April 2024, Headquarters, U.S. Army Reserve Command (USARC), Director Resource Management G-1, provided an advisory opinion for this case and stated:

a. The applicant's reenlistment into the USAR on 13 August 2020 for a \$3,400.00 Selected Retention Bonus (SRB) in MOS 15U, CH-47 Helicopter Repairer. The 90th Aviation Support Battalion determined that he was an unsatisfactory participant due to accumulating 14 unexcused absences from 30 April 2021 to 9 January 2022.

b. As per Army policy, the accumulation of nine or more unexcused absences within a 12-month period mandates the termination and recoupment of a Soldier's incentives. Despite the applicant's submission of Request for Rescheduled Training (RST) forms for specific dates (30 April to 1 May 2021, 16 to 17 October 2021, 6 to 7 November

2021, and 9 January 2022), it has been determined that these absences remained unexcused.

c. Upon a thorough examination by the commander, Chief Warrant Officer Four (CW4) R\_ I\_, it was discovered that he did not sign the RST forms, and the signature on the forms do not match his. CW4 R\_ I\_ has confirmed the validity of the unexcused absences of the applicant from 30 April 2021 to 9 January 2022. Based on the current information provided in this case, the USARC G-1 recommends no relief.

5. On 10 April 2024, by email, the applicant responded to the USARC advisory opinion and stated, "Mr. R\_ I\_ is a liar, we did not get along and now he wants to be like this. His fault for thinking the Army would be there for its Soldiers any way. This is why suicide rates are so high with veterans. Oh well, he is broke any way so DFAS can get their money \$25.00 at a time."

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not 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 and Headquarters, United States Army Reserve Command (USARC)- Resource Management G-1 advisory opinion, the Board the Board concurred with the advising official finding the applicant was an unsatisfactory participant due to accumulating 14 unexcused absences from 30 April 2021 to 9 January 2022.

2. The Board noted this board is not an investigative body. The Board determined despite the absence of the applicant's battle assembly records, they agreed the burden of proof rest on the applicant, however, he did not provide any supporting documentation and his service record has insufficient evidence to support the applicant contentions. Based on this, the Board determined there is insufficient evidence that warrants remission, cancellation, or waiver of recoupment of the applicant's U.S. Army Reserve (USAR) Reenlistment Bonus contracted on 13 August 2020. Therefore, relief is denied.

3. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record 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.

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.

X//Signed//

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) 15-185 (ABCMR) states, 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.

2. AR 135-91 (Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Provisions) defines Army National Guard and USAR service obligations. It prescribes policies and procedures governing the various types of service

obligations and participation requirements. The Regulation states that an enlisted Soldier who is obligated by statute or contract will be charged with unsatisfactory participation when, without proper authority, he or she accrues a total of 9 or more unexcused absences from scheduled drills in any 12-month period.

3. AR 601-210 (Regular Army and Reserve Components Enlistment Program) prescribes eligibility criteria governing the enlistment of persons, with or without prior service (PS), into the Regular Army (RA), the U.S. Army Reserve (USAR), and the Army National Guard (ARNG). Chapter 10 (SRIP Enlisted and Officer Incentives), paragraph 10-8 (Termination of incentives) states, entitlement to an incentive will be terminated when any of the following termination reasons apply before the fulfillment of the service described in the member's written agreement. That member will not be eligible to receive any further incentive payments, except for service performed before the termination date. Once declared ineligible, termination of an incentive will not affect a Soldier's responsibility to serve their current statutory or contractual service commitment. Termination of eligibility to an incentive will occur if a Soldier becomes an unsatisfactory participant (see AR 135-91). The effective date for termination entered into the personnel data reporting systems for Soldiers declared unsatisfactory participants is the date of the first unexcused absence.

4. 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.

5. Department of Defense Instruction (DODI) 1205.21 (Reserve Component Incentive Program Procedures) states in Paragraph 6.2, as a condition of the receipt of an incentive covered by this Instruction, each recipient shall be required to sign a written agreement stating that the member has been advised of and understands the conditions under which continued entitlement to unpaid incentive amounts shall be terminated and which advance payments may be recouped. That agreement shall clearly specify the terms of the Reserve service commitment that authorizes the payment of the incentive to the member. Paragraph 6.8.2 states, a Soldier's incentive will be terminated with recoupment if they separate from the Reserves for any reason (including enlistment or voluntary order to active duty in the active forces).

6. AR 600-4 (Remission or Cancellation of Indebtedness) in accordance with the authority of Title 10 USC, section 7837, 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 7837 when the debt is incurred while not on active duty or in an active status.

//NOTHING FOLLOWS//