

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 July 2024

DOCKET NUMBER: AR20230012234

APPLICANT REQUESTS: in effect,

- remission or cancellation of his indebtedness for Servicemembers Group Life Insurance (SGLI) and repayment of any debt which he paid
- a personal appearance before the Board via video or telephonically

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

- DD Form 149 (Application for Correction of Military Record) unsigned
- DD Form 149 signed
- DA Form 4856 (Developmental Counseling Form)
- Headquarters (HQs), 81st Readiness Division (U.S. Army Reserve (USAR))
Orders Number 19-339-00003

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 in effect, he was counseled by his unit on 28 February 2019 for separation due to his Expiration Term of Service (ETS) which was 2 March 2019. He stopped attending his unit training assemblies because he believed he was separated from the military. However, his separation order was not published until 5 December 2019 in which the additional instructions stated, "Soldier was held beyond normal discharge dated through no fault of the Soldier." Without his knowledge, he was still being charged for SGLI between his ETS and the effective date of his discharge. He should not be responsible for the incurred indebtedness because he was not separated for the completion of his contract in a timely manner and was counseled, he was being separated from the U.S. Army Reserve (USAR) for his ETS.

3. A review of the applicant's service record shows:

a. On 3 March 2011, the applicant enlisted in the Army National Guard (ARNG) for 8-years. His ETS would be 2 March 2019. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) paragraph 10g states "the President may suspend any provision of law relating to separation from the Armed Forces if he or his designee determines the applicant was essential to national security of the United States. Such an action may result in an extension, without consent, of the length of service specified in the agreement. Such an extension is often called a "stop loss" extension."

b. On 22 August 2011, Orders Number 1234504 issued by the Military Entrance Processing Station, the applicant was ordered to initial active duty for training, effective 28 August 2011.

c. On 17 May 2012, the applicant was honorably released from active duty. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed 8-months and 20-days of active service. It also shows in item 6 (Reserve Obligation Termination Date): 2 March 2019.

d. On 2 March 2017, the applicant was honorably released from the ARNG and assigned to the USAR Control Group (Annual Training) for expiration of active status commitment in the Selected Reserve. National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) shows the applicant completed 6-years of service.

e. On 3 March 2017, Orders Number 062-518, issued by the Joint Force HQs Alabama National Guard, the applicant was honorably released from the ARNG and assigned to the USAR Control Group (Annual Training) for completion of 6-years ready reserve obligation.

f. On 9 March 2018, Orders Number C-03-803088, issued by the U.S. Army Human Resources Command, the applicant was assigned to a USAR Troop Program Unit (TPU), effective 7 March 2018 with an ETS date of 2 March 2019.

g. The Soldier Management Services - Web Portal (SMS Web) screenshot shows the applicant's:

- expiration of statutory military obligation and his ETS was 2 March 2019
- Montgomery GI Bill status was terminated for separation from the Selected Reserve effective 5 December 2019
- retirement point detail shows he attended unit training assemblies between the period of 6 April through 2 December 2018

4. The applicant provides:

a. DA Form 4856 which shows the applicant was counseled on 28 February 2019 for his decision to separate from his USAR TPU and his contractual and statutory service obligations ended on 2 March 2019. It further states the applicant's leadership would be informed of his decision to separate at the time of his ETS and he must submit a written request to initiate a separation packet. He must also continue to participate in the USAR TPU. There was no plan of action provided to the applicant and he did not sign the DA Form 4856. The counselor was T- B- and he signed the DA Form 4856 on 8 February 2019.

b. HQs, 81st Readiness Division (USAR) Orders Number 19-339-00003 dated 5 December 2019 which shows the applicant was honorably discharged from the USAR, effective 5 December 2019. The additional instruction stated, the Soldier was held beyond his normal discharge date through no fault of his own.

5. On 5 April 2024, in the processing of this case, the Defense Finance and Accounting Service stated the Defense Debt Management System (DDMS) shows the applicant had an original debt of \$324.00 plus interest, penalties and administrative fees in the amount of \$17.22 for the collection of SGLI premiums paid on his behalf for the period of January through December 2019. The premiums were paid because the applicant had an active payroll account that was not separated until recently by his prior unit or finance office. The applicant has paid \$245.87 toward the debt for a balance of \$14.83 which was referred to a collection agency.

BOARD DISCUSSION:

1. The Board determined 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.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. The evidence of record shows following his release from the ARNG on 3 March 2017, the applicant was assigned to the USAR Control Group (Annual Training) for completion of 6-years ready reserve obligation. He was assigned to a USAR TPU effective 7 March 2018 with the expiration of term of service as 2 March 2019. The applicant was ultimately discharged on 5 December 2019. The discharge orders issued by 81st Readiness Division state in the additional instruction, the Soldier was held beyond his normal discharge date through no fault of his own. The SGLI premiums were paid because the applicant continued to have an active payroll account beyond March 2019, and he was not separated until December 2019 by his prior unit or finance office. His original debt was for \$324.00 plus interest, penalties and administrative fees.

b. The Board found the applicant's contention credible. He was counseled by his unit on 28 February 2019 for separation due to the expiration of term of service which was 2 March 2019. Naturally, he stopped attending his unit training assemblies because he believed he was separated from the military. Yet, he was still being charged for SGLI premiums between his original ETS date and the actual effective date of his discharge. The Board agreed that he should not be responsible for administrative errors committed by his unit in not timely discharging him on his ETS date. Therefore, the Board determined relief is warranted.

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 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:

- Voiding Orders 19-339-0003, issued by Headquarters, 81st Readiness Division (USAR) on 5 December 2019.
- Issuing the applicant new discharge orders showing the effective date of discharge is 2 March 2019
- Reimbursing the applicant all SGLI debt collected, as a result of this correction

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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, USC, 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 (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 based on this regulation in cases arising from debts incurred while serving on active duty or in an active status as a Soldier.

3. Department of Defense Financial Management Regulation 7000.14-R, Volume 7a (Military Pay), chapter 47 (Servicemembers Group Life Insurance (SGLI) Program), Members who receive basic pay for one or more days per month are responsible for SGLI premiums unless they waive coverage.

a. Paragraph 470301, effective 6 April 1991, this program automatically insures eligible members against death in the amount of \$100,000.00 when the member is performing active duty or active duty for training for an ordered period of more than 30-days. All Selected Reservists and any other Ready Reserve members who are assigned or attached to a unit or position that may require performing active duty or active duty for training and that will require at least 12 scheduled periods of inactive duty for training annually are also covered full-time (includes but is not limited to training and retired categories A, B, C, D, F, H, L, P, Q, T, and U). Members may elect basic coverage for an amount less than \$100,000.00, in \$10,000.00 increments, or may elect to waive coverage.

b. Paragraph 4707 (Deductions (SGLI Premiums)), when a member is in a status referred to in section 4703 (eligible for full-time coverage), the monthly deduction (effective 1 July 1994) is \$.90 for each \$10,000.00 of coverage. The deduction will be made even though the member may have paid the yearly premium as a Reservist covered on a part time basis. Monthly deductions are not prorated for partial months of service. Deduct the full month's premium for any month in which a member is covered for at least one day. During months in which coverage amounts change, deduct the full month's premium for the higher coverage rate. When a member is required to perform duty then the effective date of and SGLI deduction enters such duty coverage is the first day of entry on such duty maximum basic coverage is automatically in effect until the member elects reduced coverage or waives coverage.

c. Paragraph 4708 (Refunds), refunds will not be made of amounts deducted before the effective date of any election for reduced or waived coverage. When a request for reinstatement of coverage or for increased coverage is rejected by the Office of Servicemen's Group Life Insurance (OSGLI), any increase in premiums withheld pending OSGLI rejection will be credited to the member's pay account.

d. Paragraph 471208 (Termination of Coverage), on the earliest date of 120-days after the: 1. Date of the member's death, 2. Date of termination of the insurance on the member's life or 3. Member separates from the Service.

4. AR 135-178 (Enlisted Administrative Separations) in effect at the time, sets policies, standards, and procedures to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of Army National Guard of the United States (ARNGUS) and U.S. Army Reserve (USAR) enlisted Soldiers for a variety of reasons.

a. Paragraph 2–15 (Separation after expiration of the service obligation), a. A Soldier is entitled to be discharged on the expiration of their service obligation, and normally will be discharged unless action is taken to retain the Soldier beyond such expiration date. b. Retention beyond the expiration date of a service obligation may be voluntary or involuntary.

(1) Soldiers may voluntarily remain beyond the expiration date of a service obligation if they are undergoing required health care or are being processed for physical disability separation. They may also consent to remain beyond the expiration date if they are subject to criminal jurisdiction of a foreign court but not physically confined by that country.

(2) Soldiers may be involuntarily retained beyond expiration of their service obligation only when action with a view toward trial by court-martial has been taken by the appropriate authorities. Such action must have been initiated before the Soldier's service obligation expired.

c. Soldiers properly held beyond expiration of their service obligation, whether voluntarily or involuntarily, retain their military status and continue to be subject to the UCMJ until formally separated by the appropriate authorities.

d. Soldiers otherwise eligible for separation on expiration of their service obligation will not be retained to satisfy a debt to the United States Government or to an individual, or to process and complete an involuntary administrative separation action in accordance with this regulation. On the other hand, if the Army does not affirmatively act to separate a Soldier and the Soldier does not demand discharge, but rather remains on duty and accepts pay and benefits, the military status of that Soldier continues.

b. Paragraph 4-2 (Military Service Obligation (MSO)), subparagraph a. Statutory military service obligation. A person whose initial entry into military service was on or after 1 June 1984 incurred an obligation under Title 10, USC, section 651(a) to serve a period of 8-years in the military service from the date of entry unless sooner discharged for personal hardship. Unless reenlisted or extended for a term of service that exceeds the expiration date of the statutory MSO, or retained as prescribed in paragraph 2-15, the Soldier will be discharged on the expiration of the statutory MSO by the separation authority.

5. AR 15-185 (Army Board for Correction of Military Records (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 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//