

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 June 2024

DOCKET NUMBER: AR20230013492

APPLICANT REQUESTS: in effect, termination of his Army Reserve Officers' Training Corps (ROTC) scholarship indebtedness.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 4 (Enlistment/Reenlistment Document – Armed Forces of the United States) for enlistment dated 20 January 2011 (U.S. Air Force (USAF))
- DD Form 4 for reenlistment dated 13 February 2017 (USAF)
- DD Form 4 for reenlistment dated 25 February 2021 (USAF)
- Defense Finance and Accounting Service (DFAS) debt statement
- Leave and Earnings Statement (LES) for the period of 1 through 31 July 2023
- Air Force Personnel Qualification Record
- Headquarters (HQs), Air Force Personnel Center statement of service
- 607th Air Operations Center (Air Forces Korea) Memorandum, Subject: Letter of Endorsement

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 incurred his indebtedness in 2010. Afterwards, he enlisted in the USAF in 2011. After he served 24-months he applied to DFAS for remission of his indebtedness for service in lieu of repayment. He was not informed that in order to terminate the indebtedness he needed to apply to the ABCMR nor that the debt still existed until 2023 as he had not received any indebtedness letters. He requests the Board terminate his ROTC indebtedness for his USAF service in lieu of repayment.

3. The applicant's records are void of his enrollment and disenrollment documents from the ROTC program. However, a DFAS official provided an email stating the applicant

has an ROTC debt in the amount of \$18,221.00, in which he has paid \$1,200.00 towards.

4. The applicant provides:

a. DD Forms 4 which show he enlisted in the USAF (active duty) on 24 May 2011 for a 6-year enlistment. He then reenlisted in the USAF on 13 February 2017 for 2 years and 3 months, and again on 25 February 2021 for 4-years and 18-months.

b. DFAS debt statement dated 30 June 2023 which shows his account is in default in the amount of \$31,622.94 with an installment amount due of \$18,258.39.

b. LES for the period of 1 through 31 July 2023 which shows the applicant has a pay entry date of 24 May 2011 and has 12-years of service.

c. Air Force personnel qualification record which shows the applicant entered active duty on 24 May 2011.

d. HQs, Air Force Personnel Center Memorandum, Subject: Official Proof of Service which shows his extended active duty date was 24 May 2011 with the same pay date. His current enlistment was dated 25 February 2021 for 4-years.

e. 607th Air Operations Center (Air Forces Korea) Memorandum, Subject: Letter of Endorsement which stated in effect, his commander endorses his request for the termination of his Army ROTC indebtedness for service in lieu of repayment. The applicant was awarded an Army ROTC scholarship in 2006 and was disenrolled in 2010 due to his inability to complete the conditions of his contract. He enlisted in the USAF in 2011 and has served 12 continuous years. Due to an incorrect mailing address in the DFAS records the applicant was not aware of his indebtedness until August 2023. His commander recommends his Army ROTC indebtedness be terminated in lieu of his Air Force service.

5. On 16 December 2013, the applicant was notified his application to the ABCMR requesting termination of his indebtedness was closed for insufficient evidence to support his request for failure to provide his enrollment in the ROTC program with attachments, his disenrollment from the ROTC program, his enlistment contract and the letter from DFAS regarding his debt.

6. On 13 February 2024, in the processing of this case, via e-mail DFAS stated the applicant has a ROTC education tuition assistance debt in the amount of \$18,221.00 and he paid \$1,200.00 towards that debt. The DFAS official believes the applicant fulfilled his service obligation as he had continuous service on active duty in the USAF.

7. On 20 May 2024, an e-mail was sent to the applicant requesting that he provide evidence to support his request for the termination of his ROTC scholarship indebtedness such as his enrollment in the ROTC program with attachments, his disenrollment from the ROTC program, his enlistment contract and the letter from DFAS regarding his debt. On 2 June 2024, the applicant responded via e-mail advising at this time he is unable to locate said documents.

BOARD DISCUSSION:

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 available evidence shows the applicant was accepted into an Army ROTC scholarship program. However, he failed to satisfy the contractual requirements of this program and was disenrolled in 2010 due to his inability to complete the conditions of his contract. The specific reasons are unknown since his disenrollment packet is not available. However, the Board presumed that the terms of the ROTC scholarship contract would have required him as a cadet to either monetarily repay the debt or agree to be ordered to active duty (emphasis added) as an enlisted Soldier through ROTC channels based on the needs of the Army. Due to an incorrect mailing address in the DFAS records the applicant was not aware of his indebtedness until August 2023.

b. The applicant enlisted in the U.S. Air Force (USAF) (active duty) in 2011 and has served 12 continuous years. His commander recommends his Army ROTC indebtedness be terminated in lieu of his Air Force service. The Board determine that his active duty enlistment in the USAF serves the same purpose as it would have had he been ordered to active duty in the U.S. Army. In other words, the Department of Defense continued to reap the benefits of his service (for a period of 12 years whereas his ROTC contract would have required much less than 12 years of active duty). Therefore, the Board determined that as a matter of equity only, it would be appropriate to consider his enlistment in the U.S. Air Force to have met the active duty obligation required by his ROTC scholarship contract.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined that the evidence presented was sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending his ROTC scholarship contract to show he satisfied the service obligation under the original terms of the ROTC contract as a U.S. Air Force enlisted Soldier.
2. That DFAS determine if he has been paid or is due to be paid an enlistment bonus. In the event that he has received an enlistment bonus or becomes due for payment of an enlistment bonus, that bonus payment should be recouped to offset an equal portion of his ROTC scholarship debt.

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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. AR 145-1 (Senior Reserve Officers' Training Corps Program: Organization, Administration, and Training), in effect at the time, prescribes policies and general procedures for administering the Army's Senior ROTC Program.

a. Paragraph 3-39 (Termination of scholarship and disenrollment), the Commanding General, ROTC Cadet Command, is the approving authority for termination of scholarship and/or disenrollment. A scholarship will be terminated, and the cadet disenrolled for any of the reasons listed in paragraph 3-43.

b. Paragraph 3-43 (Disenrollment), a. A scholarship cadet may be disenrolled only by the CG, ROTCCC. Disenrollment authority does not include the discharge authority for Simultaneous Membership Program participants. Scholarship cadets will be disenrolled for the following reasons: Subparagraph (16) Breach of contract (including formerly used term willful evasion). (Note: Breach is defined as any act, performance or non-performance 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 non-performance breaches the contract).

c. Paragraph 3-44 (Discharge and separation from the U.S. Army Reserve), a. The CG, ROTCCC, is the only authority for discharge of scholarship cadets. ROTC cadets normally will be honorably discharged on the date of disenrollment from the ROTC program, except those ordered to active duty under the terms of their ROTC contract. c. Upon disenrollment from the ROTC, a cadet assigned to Control Group (ROTC), who is not ordered to active duty or pending such an order and has previously completed a basic training course conducted by a U.S. Armed Force, will be transferred to the Individual Ready Reserve if the military service obligation has not been met. A cadet assigned to Control Group (ROTC) who is not ordered to active duty or pending such an

order and has no previous military service, or who has not completed a basic training course, will be discharged. The effective date of discharge or transfer will be the date of disenrollment from the ROTC. e. Cadets called to active duty for breach of the terms of their ROTC contract will serve periods of active duty as specified in their contract.

4. Title 10, USC, section 2005 (Advanced education assistance: active-duty agreement; reimbursement requirements), provides 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 with the Secretary concerned under the terms of which such person shall agree:

a. That if such person does not complete the period of active duty specified in the agreement, or does not fulfill any term or condition prescribed, such person shall be subject to the repayment provisions of Title 37, USC, section 303a(e); and

b. To such other terms and conditions as the Secretary concerned may prescribe to protect the interest of the United States.

//NOTHING FOLLOWS//