

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 August 2024

DOCKET NUMBER: AR20230013955

APPLICANT REQUESTS: in effect, remission or cancelation for an unknown indebtedness to the Defense Finance and Accounting Service (DFAS).

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record).

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, he recently began having a garnishment of \$180.00 per month from his Social Security Disability Insurance. He contacted DFAS to find that apparently in 2023 he was overpaid 45-days of leave, which does not make any sense to him as he had been retired from the Army since 6 April 2004 and he has never cashed in any leave during his military service. DFAS stated the notes in the system were conflicting and they did not know how to proceed and instructed him to contact the Army Board for Corrections of Military Records. This is an injustice as he is being forced to pay a debt he did not incur.
3. A review of the applicant's service record shows:
 - a. On 24 April 1997, the applicant enlisted in the Regular Army (RA).
 - b. On 3 August 2000, Orders Number 216-0129, issued by the U.S. Army Field Artillery School and Fort Sill, the applicant was assigned to the U.S. Army transition point, effective 23 November 2000, for separation from active duty.
 - c. On 23 November 2000, the applicant was honorably released from active duty and assigned to the U.S. Army Reserve (USAR) Control Group (Reinforcement).

DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed 3-years and 7-months. Item 16 (Days Accrued Leave Paid) shows "none."

d. On 21 May 2001, Orders Number C-05-114183, issued by the USAR Personnel Command, the applicant was assigned to a USAR Troop Program Unit, effective 19 May 2001.

e. The applicant's service record is void of a DD Form 214 to coincide with the DD Form 215 (Correction to DD Form 214 Certificate of Release or Discharge from Active Duty) which corrected item 12d (Total Prior Active Service) to reflect 4-years and 7-months for the DD Form 214 with the separation date of 30 September 2002.

f. The applicant's DD Form 214 shows the applicant was ordered to active duty on 1 October 2001. He was honorably retired by reason of permanent disability, effective 6 April 2004. DD Form 214 shows the applicant completed 2-years, 6-months, and 6-days of active service. It also shows in item 16; 21 days accrued leave paid.

4. On 29 July 2024, in the processing of this case DFAS advised the Defense Debt Management System (DDMS) shows the applicant had an original debt in the amount of \$2,585.76 plus interest, penalties and administrative fees in the amount of \$281.44. There had been \$1,898.54 collected towards the indebtedness. An amount of \$850.44 of the debt and \$118.22 of the interest, penalties and administrative fees have been written off with brought the debt to a \$0.00 balance. There is no documentation regarding the debt as it has interfaced to the DDMS. The debt is reported in the system as 45-days of accrued leave as of 12 April 2023. It was later determined the applicant was not entitled to this payment due to leave taken during the period of 10 April through 10 April 2023.

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 DFAS advisory opinion, the Board concurred with the advising official finding the applicant had an amount of \$850.44 of the debt and \$118.22 of the interest, penalties and administrative fees, however the amount has been written off which brought the debt to a \$0.00 balance. Evidence in the record show the applicant had an original debt in the amount of \$2,585.76 plus interest, penalties and administrative fees in the amount of \$281.44. There had been \$1,898.54 collected towards the indebtedness.

2. The Board determined there is insufficient evidence to support the applicant's contentions for remission or cancelation for an unknown indebtedness to the Defense Finance and Accounting Service (DFAS). The Board noted, there is no documentation regarding the debt as it has interfaced to the DDMS. The debt is reported in the system as 45-days of accrued leave as of 12 April 2023. Based on the evidence provided by DFAS, stating no debt, the Board denied relief.

3. The Board 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 regarding an erroneous debt remission.

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.

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) 600-8-10 (Leaves and Passes) in effect at the time, prescribes the policies and mandated operating tasks for the leave and pass function of the Military Personnel System. It provides a single-source operating document to the field, and as such, is binding on all communities involved in granting leaves and passes. This regulation establishes standards and provides an operational document in a logical sequence. Paragraph 2-4 (Payment of accrued leave), a. Payment of accrued leave is made per Department of Defense Financial Management Regulation (DoDFMR) 7000.14-R. d. Payment of accrued leave is made for leave earned by a Soldier of a Reserve Component, retired Reserve, or retired member of the Regular Army while serving on active duty in support of a contingency operation. By law, payment of accrued leave is limited to 60 days one time during a military career, unless earned under this paragraph.
3. DoDFMR 7000.14-R, volume 7a, chapter 35 (Separation Payments), paragraph 2 (Accrued Leave Pay), a member who is discharged or separated under honorable conditions is entitled to payment of unused accrued leave unless the member continues on active duty under conditions that require accrued leave to be carried forward, or in the case of a Reserve Component member, the member elects to have the leave carried forward to the member's next period of active service. An enlisted member who voluntarily extends their enlistment for the first time is also entitled to payment for unused accrued leave. Generally, a Service member is entitled to receive payment for no more than 60 days of accrued leave during a military career. A Service member eligible for an unused accrued leave settlement is authorized an election regarding payment or carryover of the leave. The member may elect to receive payment for a portion of the unused leave, not to exceed a career total of 60-days, and to have the remaining accrued leave carried forward to a new or extended enlistment. The total of paid and carried forward leave may exceed 60 days. The 60-day leave payment limitation does not apply with respect to leave accrued by a member of a Reserve Component or retired Reserve; a retired member of the Regular Army, during any period while the member also is: serving on active duty in support of a contingency operation on or after 5 December 1991.
4. 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.

//NOTHING FOLLOWS//