

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 August 2024

DOCKET NUMBER: AR20230014200

APPLICANT REQUESTS: reinstatement and payment of his Reenlistment Bonus (REB) in the amount of \$12,000.00 in the Army National Guard (ARNG).

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

- DD Form 149 (Application for Correction of Military Record)
- National Guard Bureau (NGB) Form 600-7-3-R-E (Annex R to DD Form 4 or DA Form 4836 Reenlistment/Extension Bonus Addendum Army National Guard (ARNG) of the United States), 20 February 2016

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 pertinent part, he reenlisted in 2016 in order to deploy with his unit to the Horn of Africa and with that reenlistment he was entitled to a \$12,000.00 REB on split payment for a 6-year contract. When it came time for his first bonus installment of \$6,000.00, he was told it was going to take longer due to a new system integration for bonus and pay. He patiently waited and continued to address his bonus issues to the unit Readiness Non-Commissioned Officer (NCO) and unit leadership. Regardless of what unit he was with at the time no one could figure out an answer to the problem. The issue kept getting passed along and left for the next Readiness NCO to fix. Fast forward seven years later and he has yet to receive any of his REB to which he completed his contract and served honorably.

3. A review of the applicant's available service record reflects the following:

- a. On 23 February 2004, he enlisted in the Florida Army National Guard (FLARNG).

b. On 8 December 2004, Headquarters, United States Army Infantry Center issued Orders Number 343-3277 awarding him Military Occupational Specialty (MOS) 11B (Infantryman), effective 21 January 2005 or upon completion of MOS training.

c. DA Forms 4836 (Oath of Extension of Enlistment or Reenlistment), shows he extended his enlistment with the FLARNG for a period of 6 months; 1 year on 23 August 2009; 3 years on 6 September 2010; 1 year on 16 June 2014; and 1 year on 23 June 2015.

d. DA Form 4836, dated 20 February 2016 shows he reenlisted in the FLARNG for a period of 6 years. In conjunction with this reenlistment, he signed NGB Form 600-7-3-R-E showing his entitlement to a \$12,000.00 REB incentive in MOS 11B for reenlisting with the FLARNG for a period of 6 years to be paid in two installments (50 percent processed for payment the day after his current Expiration Term of Service (ETS) and verification of his MOS and unit of assignment in the Guard Incentive Management System (GIMS), and the final 50 percent upon completion of the fourth year anniversary of his REB contract start date provided installment one was previously processed). This form bears Bonus Control Number R16020163XX.

e. Additional DA Forms 4836, show he extended his enlistment with the LARNG for a period of 1 year on 15 May 2019 and 6 more years on 22 March 2023.

f. He continues service with the FLARNG.

4. On 6 May 2024, the NGB, Chief, Special Actions Branch, provided an advisory opinion recommending approval of the applicant's request stating, in effect:

a. The applicant extended in 2016 for a REB of \$12,000.00. However, the applicant never received his first installment of his bonus. The applicant requests payment of his REB in full. The applicant's records show that he joined the FLARNG in 2004 and extended his contract in 2010 with a bonus entitlement of \$2,500.00. He fulfilled his service obligation and received this bonus. He extended his service again in 2016 with a REB of \$12,000.00. However, this bonus never correctly established in GIMS. Despite the state incentive manager's efforts to correct the applicant's records and establish his second REB contract in GIMS, the system never properly established the contract. The contract was finally reconciled in 2022 and established, but it now requires an exception to policy for a closed-year payment.

b. Based on the applicant's claims and the documents he provided in support of his request, the applicant's bonus from 2010 was correctly paid and completed. However, due to a system error, GIMS did not recognize this and rejected the establishment of the second contract. GIMS returned the 2016 REB contract without establishing it even

though the incentive manager tried to reconcile the contract and commented that the 2010 REB had been paid in full.

c. It is the recommendation of this office that the applicant's request be approved. Based on the applicant's records, he was never paid his REB in 2016 because of a system error in the GIMS. In order to correct his records, it is recommended that the applicant receive his complete balance of \$12,000.00 from his 2016 REB that is justly owed.

d. The ARNG Incentives Branch concurs this recommendation. The FLARNG concurs with this recommendation.

5. On 9 May 2024, the applicant was provided with a copy of the advisory opinion and provided an opportunity to respond. As of 25 May 2024, he did not respond.

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. The evidence shows the applicant extended his enlistment in the ARNG for 6 years in 2016 with a promise of a \$12,000 reenlistment/extension bonus. However, he never received his first installment (or second installment) of his bonus. The evidence further shows the bonus was not correctly established in GIMS. Despite the state incentive manager's efforts to correct the applicant's records and establish this REB contract in GIMS, the system never properly established the contract. The contract was finally reconciled in 2022 and established, but it now requires an exception to policy for a closed-year payment. The Board reviewed and agreed with the NGB advising official determination that due to a system error, GIMS rejected the establishment of the applicant's 2016 contract. Therefore, the Board determined the applicant is eligible to receive his complete balance of \$12,000.00 from his 2016 REB that is justly owed.

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 and Army National Guard records of the individual concerned be corrected by

- showing the applicant submitted an exception to policy to the National Guard Bureau (NGB) for payment of his Reenlistment/Extension Bonus (REB), dated 20 February 2016
- showing the NGB timely received, processed, and approved the applicant's exception to policy for payment of his REB bonus, provided all other criteria is met

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. Title 37, USC, section 308 (Special Pay: reenlistment bonus) states the Secretary concerned may pay a bonus under paragraph (2) to a member of a uniformed service who is qualified in a military skill designated as critical by the Secretary of Defense, and reenlists or voluntarily extends the member's enlistment for a period of at least three years in a regular component or the Reserve component of the service concerned. Bonus payments authorized under this section may be paid in either a lump sum or in installments. If the bonus is paid in installments, the initial payment shall be not less than 50 percent of the total bonus amount.

3. NGB Selected Reserve Incentive Program Policy Number 16-01 provides that the REB is processed in 2 installments: 50 percent the day after the current ETS, and 50 percent on the fourth-year anniversary.

4. Title 31, USC, section 3702, is the 6-year barring statute for payment of claims by the government. In essence, if an individual brings a claim against the government for monetary relief, the barring statute says that the government is only obligated to pay the individual 6 years from the date of approval of the claim. Attacks to the barring statute have resulted in litigation in the U.S. Court of Federal Claims. In the case of *Pride versus the United States*, the court held that the Board for Correction of Military Records (BCMR) is not bound by the barring act, that the BCMR decision creates a new entitlement to payment and the 6 years starts running over again, and that payment is automatic and not discretionary when a BCMR decision creates an entitlement.

//NOTHING FOLLOWS//