

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 September 2024

DOCKET NUMBER: AR20240000122

APPLICANT REQUESTS:

- debt remission related to supplicate separation pay disbursements
- any recouped monies refunded

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored letter
- Leave and Earnings Statement (LES)
- Bank of America screenshot
- Case Management System 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 his incurred debt is the result of an electronic transfer payment of that was issued to a bank account that he had not used for at least two years. He was advised that the account had been deleted due to inactivity in 2002. Upon inquiry, he was advised that any remaining funds in the account would have been provided to the State. He contests that upon separation from the Army, he was entitled to Separation Pay (\$34,784.82) of which was received during his out-processing in the form of paper check. He notes that he inadvertently received duplicate payments and has previously repaid the only payment that he was aware of. He further provides that an additional payment is currently being recouped from his social security compensation. He was contacted by the Defense Finance and Accounting Service (DFAS) and required to provide copies of his DD Form 214 (Certificate of Release or Discharge from Active Duty) after he was discharged. After doing so no additional communication occurred. However, in November 2021, he received a letter from the U.S. Department of Treasury advising him that 15 percent of his Social Security compensation would be withheld in

order provide repayment of the previously received Separation Pay. He contacted DFAS customer service and was advised that he had a zero balance. In December 2021, the Department of Treasury also advised the same.

3. A review of the applicant's service records show:

- a. On 26 June 1984, the applicant enlisted in the Regular Army.
- b. On 25 June 1987, the applicant was honorably released from active duty and transferred into the U.S. Army Reserve (USAR) Control Group (Reinforcement).
- c. On 3 March 1988, the applicant enlisted in the Regular Army.
- d. On 29 March 2000, the applicant was honorably released from the Regular Army and transferred into the USAR Control Group (Reinforcement) with entitlement to \$34,784.82 in Separation Pay.
- e. On 31 December 2002, the U.S. Army Reserve Personnel Command issued Orders Number D-12-250445 honorably discharging the applicant from the USAR, effective 31 December 2002.

4. The applicant provides the following a:

- a. LES reflective of the applicant's pay and entitlements from January – April 2000.
 - January 2000 – \$25,031.91 debt advisement
 - February 2000 - \$150.00 debt recoupment; Nations Bank identified as the direct deposit location
 - March 2000 - \$150.00 debt recoupment; Bank of America identified as the direct deposit location
 - April 2000 - \$25,631.91 advance debt; \$26,607.05 recoupment
- b. Bank of America screenshot reflective of information pertaining to inactive accounts.
- c. Case Management System record reflective of information pertaining to the applicant's pay history. Upon inquiry DFAS advised that the advance debt in the amount of \$25,781.91 appears to be in error. Correcting this debt amount would negate the debt currently being pursued by the Department of Treasury.

5. On 16 August 2024, the Department of the Army, Office of the Deputy Chief of Staff G-1, Program Analyst, Compensation and Entitlements Division, provided an advisory opinion recommending approval of the applicant's request noting that his Active and

Reserve Component accounts reflected the same amount of debt in the amount of \$25,031.91. The Reserve Component debt was comprised of three entries of \$9,999.98, \$5,031.94, and \$9,999.99, totaling \$25,031.91. It is their recommendation that DFAS Debt Collections Management Office recall the debt from the Department of Treasury, which would entail writing off the interest and administrative fees for the debts in the total amount of \$25,031.91 and the applicant be refunded all monies collected.

6. On 25 September 2024, the applicant was provided with a copy of the advisory opinion and given an opportunity to respond. 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 Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive review based on law, policy, and regulation. The Board reviewed and concurred with the Office of the Deputy Chief of Staff G-1's advising official finding the applicant's active and Reserve component (RC) accounts reflect the same amount of debt in the amount of \$25,031.91. The RC debt was comprised of three entries of \$9999.98, \$5031.94, and \$9,999.99; totaling \$25,031.91. The advising official recommended to recall the debts and refund the monies to the applicant and the Board concurred.

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 cancelling collection of \$25,031.91 in debt and refunding any monies already recouped.

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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 600-4 (Remission or Cancellation of Indebtedness) in accordance with the authority of Title 10 USC, section 4837, 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 4837 when the debt is incurred while not on active duty or in an active status.
3. Title 10, USC, section 1552 states, the Secretary concerned may pay, from applicable current appropriations, a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, if, as a result of correcting a record under this section, the amount is found to be due the claimant on account of his or another's service in the Army.

//NOTHING FOLLOWS//