

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 September 2024

DOCKET NUMBER: AR20240001215

APPLICANT REQUESTS: remission or cancellation of indebtedness from non-chargeable leave and repayment of monies paid towards the indebtedness.

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

- DD Form 149 (Application for Correction of Military Record)
- Headquarters (HQ), 85th Support Command Orders Number UZ-049-0033
- DA Form 31 (Request and Authority for Leave)
- HQ, U.S. Army Garrison, Fort Bliss Orders Number 172-0524
- DD Form 214 (Certificate of Release or Discharge from Active Duty) service ending 30 June 2022
- Leave and Earnings Statement (LES) check dated 1 July 2022
- LES check dated 15 August 2022
- Defense Finance and Accounting Service (DFAS) letter

FACTS:

1. The applicant states he was ordered to active duty on 1 July 2021 for 365-days and was afforded five travel days at the beginning and end of his mobilization to get from his home of record to the mobilization station. The employees at the Fort Bliss, TX, pay office incorrectly determined the travel time was not allowed and he was charged five days of leave. Though his orders ended on 30 June 2022, he was not made aware of his indebtedness until he saw it on his 15 August 2022 LES. The Fort Bliss pay office misinterpreted the policy which caused him to pay an erroneous debt. As a Reserve Soldier, he can only travel for duty while he is on orders, which the Army gave him five days to get from his home to Fort Bliss and was paid mileage and reimbursed for lodging along the way. The same logic applies for his travel from Fort Bliss back to his home. He was directed by his unit to depart Fort Bliss on 25 June 2022 with the understanding he was using travel days, not leave days.

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

- a. On 26 July 2000, the applicant enlisted in the Regular Army.

b. On 25 July 2004, the applicant was honorably released from active duty and assigned to the U.S. Army Reserve (USAR) Control Group (Reinforcement).

c. On 5 April 2006, Orders Number C-04-609305, issued by the U.S. Army Human Resources Command, assigned the applicant to a USAR Troop Program Unit effective 5 April 2006.

d. On 11 January 2008, the applicant extended his enlistment in the USAR and had continuous service through reenlistments.

e. On 30 October 2017, Orders Number UZ-303-0001, issued by HQ, 85th Support Command, ordered the applicant to active duty in support of Operation Enduring Freedom Continental U.S. (CONUS) Support Base effective 8 March 2018.

f. On 7 March 2019, the applicant was honorably released from active duty. DD Form 214 shows the applicant completed 1-year of active service.

g. On 18 February 2021, Orders Number UZ-049-0033, issued by HQ, 85th Support Command, ordered the applicant to active duty in support of Operation Enduring Freedom CONUS Support Base, Fort Bliss, TX, effective 1 July 2021.

h. On 30 June 2022, the applicant was honorably released from active duty. DD Form 214 shows the applicant completed 1-year of active service. The applicant signed his DD Form 214 on 21 June 2022.

3. The applicant provides:

a. DA Form 31, dated 2 June 2022 which was approved by his commander on 7 June 2022 for 5-days of non-chargeable leave during the period of 26 through 30 June 2022. It also shows the applicant departed Fort Bliss, TX on 25 June 2022 at 1700 hours. Block 17 (Remarks) states 26 through 30 June 2022 were for travel days.

b. HQs, U. S. Army Garrison, Fort Bliss Orders Number 172-0524 showing the applicant was released from active duty for the demobilization of forces from a contingency operation, effective 30 June 2022.

c. LES, check dated 1 July 2022 shows the applicant was on active duty for training during the period of 16 through 30 June 2022.

d. LES, check dated 15 August 2022 shows in the remarks the applicant had an indebtedness for:

- pay and allowances in the amount of \$25.00 for the period of 27 through 29 June 2022
- basic pay in the amount of \$781.40 for the period of 27 through 30 June 2022
- pay and allowances debt in the amount of \$321.86 for the period of 27 through 30 June 2022
- excess leave penalty-taxable in the amount of \$97.67 for 30 June 2022
- excess leave penalty non-taxable in the amount of \$40.23 for 30 June 2022
- unpaid debt balance total of \$1,440.23

It also shows there was:

- adjustment pay for basic allowance for housing with dependent in the amount of \$267.60 for the period of 27 through 30 June 2022
- adjustment pay for basic allowance subsistence – enlisted in the amount of \$54.26 for the period of 27 through 30 June 2022
- adjustment pay for basic pay in the amount of \$721.62 for the period of 27 through 30 June 2022
- original debt in the amount of \$321.86 was suspended to contact servicing finance office for details
- original debt in the amount of \$781.40 was suspended to contact servicing finance office for details

e. DFAS letter dated 11 May 2023, notified the applicant of his indebtedness in the amount of \$1,504.23 for:

- Service Member's Group Life Insurance premiums in the amount of \$96.00 for the period of July through September 2022
- overpayment of military pay and allowances for entitlement of family separation pay type II for the period of 27 through 29 June 2022
- excess leave in the amount of \$1,383.23 for the period of 24 April and 24 through 30 June 2022

4. On 11 July 2022, in the processing of his case, the Army Review Boards Agency Case Management Division inquired with DFAS regarding the applicant's indebtedness. The official from the Debt and Claims Management branch at DFAS advised the applicant had an indebtedness in the amount of \$1,504.23; however, it was paid in full.

The debt in the system was for:

- Service Member's Group Life Insurance premiums that were paid on his behalf in the amount of \$96.00 for the period of July through September 2022, premiums were paid because his active payroll account was not separated until recently

- overpayment of a military pay and allowances for family separation pay type II for the period of 27 through 29 June 2022
- excess leave in the amount of \$1,383.23 periods are 24 April and 24 through 30 June 2022

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.
2. The Board concurred with the applicant's assertion that he was authorized a non-chargeable absence for travel at the end of his period of mobilization in 2022. Based on a preponderance of the evidence, the Board determined the applicant's record should be corrected to show collection of debt based on excess leave during the period of active duty ending on 30 June 2022 was cancelled.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	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 to show collection of debt based on excess leave during the period of active duty from 1 July 2021 to 30 June 2022 was cancelled. As a result of this correction, any monies paid toward the debt should be returned to the individual concerned.

X

CHAIRPERSON

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. 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.
2. 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.
 - a. Paragraph 4-9 (Terminal leave), terminal leave, also known as transition leave, is ordinary (chargeable) leave. Terminal leave begins after Soldiers complete all operational requirements, out-processing requirements, and transition processing in preparation for separation from active duty. Soldiers must complete processing at an authorized and directed transition activity before beginning terminal leave. The terminal leave period ends on the same calendar day as the date of discharge from active duty, which may be the Soldier's expiration term of service date, retirement date, or separation date from active duty. To prevent loss of leave and to minimize accrued

leave payments, requests for terminal leave should normally be granted. Soldiers must have their retirement, separation, or release orders in their possession and have completed all administrative processing before signing out and departing on terminal leave.

b. Paragraph 5-8 (Excess leave), excess leave is a no-pay status; therefore, entitlement to pay and allowances and leave accrual stops on the first day of excess leave. Excess leave is normally not authorized at separation, except for involuntary excess leave awaiting punitive or administrative discharge. The DA Form 31 for excess leave must include this statement in block 17, "I understand that excess leave is without pay and allowances, so I am not entitled to disability retirement or separation for disability incurred in an excess leave status except as provided in 10 USC 1201(c)." Counseling must include that excess leave is without pay and allowances, and leave does not accrue while the Soldier is in an excess leave status.

c. Paragraph 12-1 (Process leave and other types of absence), g (Chargeable leave), (1) The Defense Military Pay Office (DMPO) will determine chargeable and non-chargeable leave when official travel is involved, using DD Form 1351-2 (Travel Voucher or Sub-voucher) together with the DA Form 31. (2) The BN S1 must reconcile with the DMPO any differences in chargeable leave dates. (3) When no official travel is performed, the BN S1 determines chargeable leave, noting days and dates in block 17 of DA Form 31. (4) Leave will be charged for day of return.

3. Department of Defense Financial Management Regulation 7000.14-R, volume 7a (Military Pay Policy – Active Duty and Reserve Pay), chapter 1 (Basic Pay), paragraph 3.5 (Allowable Travel Time for Reserve Members Called to or Released From Active Duty), Reserve members called to active duty are entitled to active duty pay and allowances for the time allowed for necessary travel from:

- home to a first duty station; or
- last duty station to home (except when released from active duty for retirement or dismissal, when discharged, or upon resignation)

Pay and allowances for allowable travel time is an earned entitlement. The payment for the return home may be made upon the member's release from such duty without regard to actual performance of the travel. If the member dies after payment, but before payment would otherwise be due, no part of the payment will be recovered by the United States. Allowable travel time is considered active duty for all purposes normally ascribed to active duty. The computation of allowable travel time, whether actual or constructive will; for periods of active duty of more than 30-days, be based upon the rules and provisions in Chapter 57. A member of a Reserve Component is entitled to active duty pay and allowances for allowable travel time, if any, when: ordered to perform active duty for training (ADT); performing authorized inactive duty for training

(IDT) immediately before or after ADT at or near the same site; or receiving orders that direct performance of necessary travel to and from the ADT site immediately before and after combined ADT/IDT. The travel date will be specified in the active duty orders. Full retirement point credit is earned for the period of IDT performed.

//NOTHING FOLLOWS//