

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 October 2024

DOCKET NUMBER: AR20240001365

APPLICANT REQUESTS: in effect, reversal of Headquarters, U.S. Army Reserve Command (USARC) G-1's disapproval of his request for an exception to policy (ETP) to receive pay of his Prior-Service Enlistment Bonus (PSEB), dated 13 April 2017.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 5261-5 (Selected Reserve Incentive Program (SRIP) - U.S. Army Reserve (USAR) PSEB Addendum), 13 April 2017
- Headquarters, USARC Memorandum - Subject: ETP for Applicant, 7 April 2022

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:

a. The USARC G-1 disapproved his request for ETP. He enlisted in the USAR on 13 April 2017, for a six-year term with a \$15,000.00 PSEB, in Military Occupational Specialty (MOS) 88M (Motor Transport Operator).

b. The USAR Pay Center did not pay the PSEB due to the applicant previously receiving a \$5,000.00 Selected Retention Bonus (SRB), in connection with his 2009, reenlistment. Department of Defense Instruction (DoDI) 1304.31 (Enlisted Bonus Program) dated 12 March 2013; prohibits Service Members who have previously received an SRB from being eligible to receive the PSEB. Additionally, he failed to become MOS qualified within the required timeframe. Army policy requires Soldiers to become MOS qualified within 24 months of assignment to maintain eligibility for payment of the PSEB. The 88th Readiness Division awarded the applicant his MOS, effective 15 June 2019, which was outside the required timeframe by approximately two

months. In this case, the United States Army Recruiting Command (USAREC) failed to verify PSEB eligibility. USARC G-1 does not have the authority to grant an ETP in cases where DoDI is concerned.

c. This is unjust as it states in the memo from the ETP that the USAREC failed to verify his eligibility, yet the bonus was put into his contract, and he has completed the contract that was associated with the \$15,000.00 bonus. Please see his memo in supporting documents. He has been perusing and actively trying to do everything possible to be awarded the bonus that was put into his contract from 2017.

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

a. On 19 October 2000, he enlisted in the Regular Army. The applicant completed training requirements and was awarded MOS 31R (Multichannel Transmission Systems Operator/Maintainer).

b. On 18 October 2004, he was honorably released from active duty and was transferred to the USAR Control Group (Reinforcement). DD Form 214 (Certificate of Release or Discharge from Active Duty) item 18 (Remarks) shows "Enlistment Bonus Paid: \$9,000.00, 20001019."

c. On 9 July 2006, he entered active duty in support of Operation Iraqi Freedom.

d. On 24 October 2006, DD Form 214 shows he was released from active duty and was transferred to World Class Athlete, Fort Carson, CO.

e. On 25 October 2006, he entered active duty in support of Active Duty for Operational Support.

f. On 31 January 2008, DD Form 214 shows he was released from active duty and was transferred to his USAR unit in Oregon.

g. On 20 January 2009, he enlisted in [REDACTED] Army National Guard (WAARNG) for a period of 1 year.

h. On 11 June 2009, DA Form 4836 (Oath of Extension of Enlistment or Reenlistment) shows he extended his [REDACTED] ARNG enlistment for a period of 6 years, which changed his Expiration Term of Service (ETS) to 19 January 2016. In connection with this extension, National Guard Bureau (NGB) Form 600-7-3-R-E (Annex R to DD Form 4 or DA Form 4836 - REB Addendum - Army National Guard (ARNG)) shows in:

(1) Section II (Eligibility), the applicant was MOS qualified for the position for which he reenlisted/extended, and he held the rank and grade commensurate with the vacancy he extended/reenlisted for.

(2) Section III (Bonus Amount and Payments), the applicant would receive a total bonus payment in the amount of \$5,000.00 for a 6-year reenlistment/extension. He certified that he reenlisted/extended in a valid, vacant position. His bonus would be paid in three installments.

i. On 19 January 2016, NGB Form 22 (Report of Separation and Record of Service) shows the applicant was honorably discharged from the [REDACTED] ARNG by reason of ETS.

j. On 13 April 2017, after a break in service, the applicant enlisted in the USAR for a period of 6 years. In connection with his enlistment, DA Form 5261-5 (SRIP - USAR PSEB Addendum) shows in:

(1) Section III (Acknowledgement), the applicant was not qualified in MOS 88M (Motor Transport Operator). He understood that he was not qualified to receive the bonus entitlements until such time he was awarded the MOS. He also understood if he did not become MOS qualified within the allocated time frame, he would forfeit all entitlements to the enlistment bonus.

(2) Section V (Entitlement), the applicant had less than 16 years of military service and he enlisted for 6 years for a bonus of \$15,000.00. The initial payment of 50 percent would be paid upon award of the MOS. The remainder would be paid for his 6-year enlistment as follows, payments of 25 percent of the total bonus amount at the end of his 2nd and 4th year of satisfactory service in a USAR Selected Reserves Unit.

(3) Selection VII (Termination), the applicant's entitlement to the PSEB would be terminated if he was not MOS qualified within "24 months" of enlistment and he "will forfeit all entitlements to the enlistment bonus."

k. On 17 September 2019, Headquarters, 88th Readiness Division published Orders Number 19-260-00045, which awarded the applicant MOS 88M2P, effective 15 June 2019.

l. On or about 7 April 2022, Headquarters USARC, Director Resource Management G-1, notified the applicant's chain of command that the applicant's request for ETP was disapproved and stated:

(1) The USARC G-1 disapproves the request for ETP. The applicant enlisted in the USAR on 13 April 2017, for a six-year term with a \$15,000.00 PSEB, MOS 88M (Motor Transport Operator).

(2) The USAR Pay Center did not pay the PSEB due to the applicant previously receiving a \$5,000.00 SRB, in connection with his 2009, reenlistment. DoDI 1304.31 dated 12 March 2013; prohibits Service Members who have previously received an SRB from being eligible to receive the PSEB.

(3) Additionally, the applicant failed to become MOS qualified within the required timeframe. Army policy requires Soldiers to become MOS qualified within 24 months of assignment to maintain eligibility for payment of the PSEB. The 88th Readiness Division awarded the applicant his MOS, effective 15 June 2019, which was outside the required timeframe by approximately two months.

(4) In this case, the USAREC failed to verify PSEB eligibility. USARC G-1 does not have the authority to grant an ETP in cases where DoDI is concerned.

m. On 28 December 2023, Department of the Army published Order Number 0006880259.00, which assigned the applicant to the "USAR Retired Reserve", effective 16 July 2024.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted.
2. The Board concurred with the reasons USARC G-1 provided in its denial of the applicant's request for an ETP. DoDI 1304.31 clearly states Service Members who have previously received an SRB are ineligible for the PSEB. While USAREC should have taken more care when the applicant reenlisted, the Board found the Department of Defense instruction prevails in this case. Based on a preponderance of the evidence, the Board determined the decision to deny an ETP to pay the PSEB was not in error or unjust.

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.

4/1/2025

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. 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 31, USC, section 3702, also known as the barring act, prohibits the payment of a claim against the Government unless the claim has been received by the Comptroller General within 6 years after the claim accrues. Among the important public policy considerations behind statutes of limitations, including the 6-year limitation for filing claims contained in this section of Title 31, USC, is relieving the government of the need

to retain, access, and review old records for the purpose of settling stale claims, which are often difficult to prove or disprove.

3. Department of Defense Instruction (DoDI) 1205.21 (Reserve Component Incentive Programs Procedures), currently in effect, requires each recipient of an incentive to sign a written agreement stating the member has been advised of, and understands the conditions under which continued entitlement to unpaid incentive amounts shall be terminated and which advance payments may be recouped. The agreement must clearly specify the terms of the Reserve Service commitment that authorizes the payment of the incentive.

4. Army Reserve (AR) Fiscal Year 2017 (FY17) Selected Reserve Incentive Program (SRIP) Policy Number 17-03, Subject: Change 2 to the AR FY17 SRIP Policy Guidance from 1 June 2017 through 30 September 2017, prescribes standards for administering the Army Reserve SRIP for FY17. Unless otherwise annotated this policy, in conjunction with Title 37, USC, DoDI 1304.31, Army Regulation 601-210, Army Regulation 135-7 and all other applicable policies, supersede instructions published in all previous SRIP policies, guidance, instruction, Montgomery GI Bill-Selected Reserve Kicker policies, and Education Incentive Operational Messages. In pertinent part, paragraph 3 (Prior Service Enlistment Bonus) states in paragraph 3.b.(5) (Eligibility), Soldiers must be Duty Military Occupational Specialty Qualified within 24 months of the date of contract execution to be eligible to receive payment of the bonus.

5. Army Regulation 135-7 (Incentive Programs) prescribes policies and procedures for the administration of the ARNG and USAR incentive programs. Chapter 2-1 (Selected Reserve Incentive Program - USAR Prior Service Enlistment Bonus), in pertinent part, states a cash bonus is offered to any person who has not previously been paid a bonus for enlistment, reenlistment, or extension of an enlistment in any Reserve Component of the Armed Forces.

6. DoDI 1304.31 (Enlisted Bonus Program), currently in effect, states in paragraph 4.3 (Prior Service Reenlistment Bonus), the Secretary of the Military Department may offer a prior service reenlistment bonus to individuals with previous military service who reenlist in a Regular or Reserve Component of a Military Service after a break in active duty or reserve duty. Paragraph 4.3.b. (Eligibility Requirements for a Prior Service Reenlistment Bonus) states, in addition to the eligibility requirements in paragraph 3.1.b., an individual must not have previously received, or currently be entitled to, a SRB in accordance with this issuance or a critical skills retention bonus in accordance with Section 355 of Title 37, USC.

//NOTHING FOLLOWS//