

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 September 2024

DOCKET NUMBER: AR20240002061

APPLICANT REQUESTS: remission or cancellation of indebtedness to the Defense Finance and Accounting Service (DFAS) in the amount of \$4,317.13.

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

- DD Form 149 (Application for Correction of Military Record)
- Department of the Treasury letter, 6 June 2022
- Administrative Wage Garnishment Request for Hearing or Eligibility Determination
- Email to the Army Review Boards Agency (ARBA)

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 she received a letter from the Department of the Treasury regarding indebtedness to DFAS. She attempted to contact the Department of the Treasury to no avail. However, she was able to contact DFAS and she was advised the indebtedness was due to Service Member's Group Life Insurance (SGLI) premiums that were paid on her behalf during the periods August 2003 through September 2004 and August 2011 through December 2016. She served in the Regular Army (RA) until 2 January 2000 and never served in the U.S. Army Reserve (USAR).
3. A review of the applicant's service record shows:
  - a. On 10 February 1993, the applicant enlisted in the RA and had continuous service through one reenlistment and extensions.
  - b. On 22 February 1994, the applicant requested a name change from [REDACTED]

c. On 7 August 1999, the applicant was honorably released from active duty and assigned to the USAR Control Group (Reinforcement). DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed 6-years, 5-months, and 28-days of active service. It also shows in item 6 (Reserve Obligation Termination Date): 2 January 2000.

d. On 24 September 2002, the applicant contracted as an Army Senior Reserve Officers' Training Corps (ROTC) Scholarship Cadet and the Army agreed to pay a 2-year academic scholarship for tuition and fees in an annual amount of \$17,000.00 plus books and laboratory expenses in the amount of \$600.00. As a condition of her membership in the Army ROTC program, she agreed to enlist in the Reserve component of the U.S. Army with an assignment in the USAR Control Group (ROTC).

e. On 6 December 2002, Orders Number 340-1, issued by the [REDACTED] University, released the applicant from the First Region, USAR Control Group (ROTC) for participation in the Army ROTC Simultaneous Membership Program and assigned her to the 377th Quartermaster Detachment, Macon, GA, effective 5 December 2002.

f. The applicant's service record is void of evidence of disenrollment or completion of the ROTC program or discharge from the USAR.

g. A screenshot of the applicant's record in Soldier Management Services - Web Portal shows:

- 8 August 1999 – voluntarily assigned to the Individual Ready Reserve due to completion of required active service
- 4 January 2000 – involuntary discharge due to Expiration Term of Service (ETS)
- 18 December 2002 – voluntary enlistment in a USAR Troop Program Unit
- 24 March 2004 – involuntary discharge due to ETS

h. The applicant's DA Form 5016 (Retirement Accounting Statement) (formerly called the Chronological Statement of Retirement Points) shows from 3 January 1992 through 2 January 1993 she obtained 6 inactive duty training points and 15 membership points and from 3 January 1993 through 24 March 2004 the applicant only obtained membership points.

4. The applicant provides:

a. Department of the Treasury letter dated 6 June 2022 which notified her of their intent to initiate administrative wage garnishment proceedings in order to collect a debt which she owed to DFAS in the amount of \$4,317.13. She had 30-days to pay the debt in full or enter into a repayment plan to avoid a garnishment order being issued.

b. On 12 November 2023, the applicant completed the Administrative Wage Garnishment Request for Hearing or Eligibility Determination as she disputed the debt and stated she did not owe the debt.

c. Email to ARBA dated 16 November 2023 stated she contacted DFAS regarding her indebtedness in the amount of \$4,317.13 and was advised the debt was due to SGLI premiums that were paid in her behalf for the period of August 2003 through September 2004 and August 2011 through December 2016 and an overpayment during the period of 19 through 31 August 2003. She also stated she served in the RA during the period of 1992 through 1999 and never enlisted in the USAR. She inquired how she could proceed to find the cause of the indebtedness.

5. On 25 July 2024, in the processing of this case, DFAS via e-mail stated the applicant had an original debt in Defense Debt Management System in the amount of \$3,684.15 plus interest, penalties and administrative fees in the amount of \$113.04. A payment in the amount of \$239.37 was collected toward the debt for a remaining balance of \$3,548.77 which was written off as well as \$9.05 of the interest, penalties and administrative fees which gave a current balance of \$0.00. The applicant submitted a request for a hearing regarding the indebtedness and after a review by the hearing department, the validity of the debt was questioned after which the balance had shown as \$0.00. There was no evidence the debt was revalidated or not.

The debt was reported to be for:

- \$3,456.25 - collection of SGLI premiums paid on her behalf, premiums were paid because she had an active payroll account that was not separated until recently; SGLI debt was for the period of August 2003 through September 2004 and from August 2011 through December 2016
- overpayment of subsistence allowance entitlement from 19 through 31 August 2003 and for 2 April 2004

#### 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. Although the evidence shows DFAS has written off the applicant's debt, the Board noted that \$293.37 had been collected against the debt. The Board found the debt in its entirety to be unjust. As a result, the Board determined the applicant's record should be corrected to show collection of the entire debt was cancelled, and the amount collected should be returned to her.

BOARD VOTE:

Mbr 1    Mbr 2    Mbr 3

<input type="checkbox"/>	<input type="checkbox"/>	<input 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 by showing collection of the debt she incurred based on SGLI premiums and overpayment of subsistence allowance was cancelled. As a result of this correction, any monies paid toward the debt should be returned to the individual concerned.

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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. 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.

3. Department of Defense Financial Management Regulation 7000.14-R, Volume 7a (Military Pay), chapter 47 (Servicemembers Group Life Insurance (SGLI) Program), Members who receive basic pay for one or more days per month are responsible for SGLI premiums unless they waive coverage.

a. Paragraph 470301, effective 6 April 1991, this program automatically insures eligible members against death in the amount of \$100,000.00 when the member is performing active duty or active duty for training for an ordered period of more than 30-days. All Selected Reservists and any other Ready Reserve members who are assigned or attached to a unit or position that may require performing active duty or active duty for training and that will require at least 12 scheduled periods of inactive duty for training annually are also covered full-time (includes but is not limited to training and retired categories A, B, C, D, F, H, L, P, Q, T, and U). Members may elect basic coverage for an amount less than \$100,000.00, in \$10,000.00 increments, or may elect to waive coverage.

b. Paragraph 4707 (Deductions (SGLI Premiums)), when a member is in a status referred to in section 4703 (eligible for full-time coverage), the monthly deduction (effective 1 July 1994) is \$.90 for each \$10,000.00 of coverage. The deduction will be made even though the member may have paid the yearly premium as a Reservist covered on a part time basis. Monthly deductions are not prorated for partial months of service. Deduct the full month's premium for any month in which a member is covered for at least one day. During months in which coverage amounts change, deduct the full month's premium for the higher coverage rate. When a member is required to perform duty then the effective date of and SGLI deduction enters such duty coverage is the first day of entry on such duty maximum basic coverage is automatically in effect until the member elects reduced coverage or waives coverage.

c. Paragraph 4708 (Refunds), refunds will not be made of amounts deducted before the effective date of any election for reduced or waived coverage. When a request for reinstatement of coverage or for increased coverage is rejected by the Office of Servicemen's Group Life Insurance (OSGLI), any increase in premiums withheld pending OSGLI rejection will be credited to the member's pay account.

d. Paragraph 471208 (Termination of Coverage), on the earliest date of 120-days after the: 1. Date of the member's death, 2. Date of termination of the insurance on the member's life or 3. Member separates from the Service.

e. Paragraph 5.1 (Basic Allowance for Subsistence (BAS)), an Reserve Component (RC) member ordered to AD with pay is entitled to BAS as prescribed in Chapter 25. An RC member ordered to AD without pay is entitled to subsistence in kind or commutation thereof. When a member is ordered to AD without pay and allowances, no payment is authorized. If commutation of subsistence in kind is authorized, then the commutation will be paid at the rate of BAS specified in Chapter 25 that is applicable to the situation.

4. AR 135-178 (Enlisted Administrative Separations) in effect at the time, sets policies, standards, and procedures to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of Army National Guard of the United States (ARNGUS) and U.S. Army Reserve (USAR) enlisted Soldiers for a variety of reasons.

a. Paragraph 2-15 (Separation after expiration of the service obligation), a. A Soldier is entitled to be discharged on the expiration of their service obligation, and normally will be discharged unless action is taken to retain the Soldier beyond such expiration date. b. Retention beyond the expiration date of a service obligation may be voluntary or involuntary.

(1) Soldiers may voluntarily remain beyond the expiration date of a service obligation if they are undergoing required health care or are being processed for physical disability separation. They may also consent to remain beyond the expiration date if they are subject to criminal jurisdiction of a foreign court but not physically confined by that country.

(2) Soldiers may be involuntarily retained beyond expiration of their service obligation only when action with a view toward trial by court-martial has been taken by the appropriate authorities. Such action must have been initiated before the Soldier's service obligation expired.

c. Soldiers properly held beyond expiration of their service obligation, whether voluntarily or involuntarily, retain their military status and continue to be subject to the UCMJ until formally separated by the appropriate authorities.

d. Soldiers otherwise eligible for separation on expiration of their service obligation will not be retained to satisfy a debt to the United States Government or to an individual, or to process and complete an involuntary administrative separation action in accordance with this regulation. On the other hand, if the Army does not affirmatively act to separate a Soldier and the Soldier does not demand discharge, but rather remains on duty and accepts pay and benefits, the military status of that Soldier continues.

b. Paragraph 4-2 (Military Service Obligation (MSO)), subparagraph a. Statutory military service obligation. A person whose initial entry into military service was on or

after 1 June 1984 incurred an obligation under Title 10, USC, section 651(a) to serve a period of 8-years in the military service from the date of entry unless sooner discharged for personal hardship. Unless reenlisted or extended for a term of service that exceeds the expiration date of the statutory MSO, or retained as prescribed in paragraph 2-15, the Soldier will be discharged on the expiration of the statutory MSO by the separation authority.

//NOTHING FOLLOWS//