

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]  
[REDACTED]

BOARD DATE: 22 November 2024

DOCKET NUMBER: AR20240002288

APPLICANT REQUESTS: in effect:

- remission, cancellation, or waiver of his debt in the amount of \$29,609.49
- appeal of the U.S. Army Human Resources Command (AHRC) partial approval to reduce his debt by only \$2,960.95

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 2823 (Sworn Statement), 22 September 2023
- DA Form 2823, 27 September 2023
- Commander, Headquarters and Headquarters Company (HHC), Mobilization Support Brigade Memorandum for Record (MFR) - Subject: Remission of Indebtedness for [Applicant], 27 September 2023
- Commander, Mobilization Support Brigade MFR - Subject: [Applicant] Remission or Cancellation of Indebtedness, 27 September 2023
- Master Sergeant (MSG) S\_ W\_ (Retired) statement
- U.S. Army Human Resources Command (AHRC) Memorandum - Subject: Remission or Cancellation of Indebtedness [Applicant], 22 February 2024

FACTS:

1. The applicant states:

a. He previously served in the U.S. Marine Corps Reserve (USMCR) from 31 October 1994 to 14 October 1998. When he enlisted in the U.S. Army Reserve (USAR) on 20 March 2002 his Pay Entry Base Date (PEBD) was calculated incorrectly. This caused him to be overpaid by \$29,609.49 over his career. He is requesting that his debt for the overpayment be reduced or forgiven.

b. Please see his attached sworn statement for more details. He first brought this issue up to his unit administrator (UA) after his first deployment in or around November 2004 and several other human resource specialists throughout his career but due to not

having his USMCR paperwork no one was able to fix the error. He feels it is unjust to hold him accountable for the overage when the individuals that were trained and supposed to catch and fix this could not. He feels that he should only be held accountable for any overpayment up until the first instance of him requesting help.

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

a. On 31 October 1994, DD Form 4 (Enlistment/Reenlistment Document – Armed Forces of the United States) shows he enlisted in the USMCR.

b. On 19 June 1995, he entered active duty in the USMC.

c. On 16 December 1995, DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably released from Initial Active Duty for Training and was transferred to his USMCR unit in Kansas City, MO. He completed 5 months and 28 days of active service this period. Item 12e (Total Prior Inactive Service) shows 7 months and 17 days.

d. His military service record contains multiple documents which show he served in the USMCR in an inactive and active status from 31 October 1994 to 14 October 1998.

e. On 20 March 2002, after a break in service, the applicant enlisted in the USAR.

f. On 14 September 2005, email communication from the UA, 243rd Quartermaster Battalion to the 89th Regional Readiness Command shows the UA requested Master Military Pay Account records for the applicant.

g. On 10 September 2006, he reenlisted for 6 years and reenlisted on 17 April 2012 for an indefinite period.

h. DA Form 5016 (Retirement Accounting Statement) dated 18 April 2024, shows his Date of Initial Entry into Military Service as 31 October 1994, PEBD as 30 October 1994, Basic Active Service Date as 20 March 2002.

3. The applicant provides:

a. DA Form 2823 dated 22 September 2023, wherein, he states, in part, on 13 September 2023, he was notified in MyPay with a zero balance Leave and Earning Statement that Defense Finance and Accounting Service (DFAS) had processed a debt for \$29,609.49. Two days later, on 15 September 2023 DFAS processed the first deduction for \$1,614.77, which is 2/3 his pay. A notice of indebtedness was not received, USAR Form 28-R. He acknowledges that this is a valid debt and the Army overpaid him \$29,609.49. He acknowledges this issue should have been fixed long

before it was. He feels as though he did his due diligence to try and get this fixed through his UA and the issue was not fixed. He did not stop at his UA he engaged other people throughout his career until he finally found someone that knew how to help him.

b. DA Form 2823 dated 27 September 2023, wherein, Sergeant First Class B\_ H\_ states, in part, he has corrected thousands of PEBDs and retirement points statements (DA Form 5016). Within a few days of his brief to the staff, the applicant [a MSG/E-8] approached him with many concerns regarding his records. First, the applicant indicated he was missing his first year in the USAR from his retirement point statement, and that he thought his PEBD may be wrong. Turns out too, his USMCR time was also missing from his statement. When he asked the applicant if he had his USMCR records, he indicated that he did not have them, that it was many years prior and that once he had been discharged, he did not know he would have the intention to reenlist, so the documents were gone. The applicant then explained to him that over the years, he had spoken to several human resource professionals regarding his missing time, and PEBD, and either the applicant was told it was right or that he needed prior service documents to correct the issue. Sergeant First Class B\_ H\_ immediately gathered up all the appropriate documents, attached the PEBD calculator, and had him send the packet to his unit for submission. He also emailed AHRC and had the applicant's DA Form 5016 corrected.

c. Commander, HHC, Mobilization Support Brigade MFR - Subject: Remission of Indebtedness for [Applicant], dated 27 September 2023, wherein, the HHC Commander stated, in part, on 13 September 2023, the applicant received a Leave and Earnings Statement with a zero-dollar balance letting him know he had a \$29,609.49 debt due to the Army. The applicant had been working on correcting his PEBD for 19 years. Upon transfer into the unit in 2022, the applicant made him aware of his PEBD issues and informed him Sergeant First Class B\_ H\_ was assisting with getting it corrected.

d. Commander, Mobilization Support Brigade MFR - Subject: [Applicant] Remission or Cancellation of Indebtedness, dated 27 September 2023, wherein, the Brigade Commander stated, in part, as the special court-martial authority, he reviewed the applicant's DA Form 3508 in its fullness and ensured of its completeness and accuracy. He recommended the debt to the U.S. Army be remitted, only requiring the applicant to pay back the portion of the debt before the applicant first notified his unit.

e. MSG S\_ W\_ (Retired) statement, undated, wherein, she states, the applicant only had his DD Form 214 from his time in training and a memorandum for record stating his service status. She informed the applicant in order to validate a PEBD he would need his discharge paperwork from the Marine Corps. For several years she attempted multiple times to obtain the applicant's records by reaching out to the Marine Corps contacts, none of which were able to provide any discharge paperwork or historical pay records to substantiate the applicant's potential promotion points. She explained to the

applicant he needed to continue to reach out and try to find his records and if he was successful, he needed to submit paperwork to correct his PEBD.

f. AHRC Memorandum - Subject: Remission or Cancellation of Indebtedness [Applicant], dated 22 February 2024, wherein, the Director, Military Pay Division stated:

(1) The application for remission or cancellation of indebtedness for the applicant in the amount of \$29,609.49 has been reviewed and is partially approved for \$2,960.95. The review determined no grounds exist to remit or cancel the remaining portion based on hardship and/or injustice.

(2) The applicant can apply to the Army Board for Correction of Military Records (ABMCR) for further review if he feels an injustice occurred. Guidance for this process can be found in Army Regulation (AR) 15-185 (ABCMR). This response does not imply that an error or injustice occurred. Neither will mere submission of the request guarantee a formal hearing or result in any favorable action taken. Each case is considered on the evidentiary information provided with the final determination based on the merits of the individual case.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not 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. Upon review of the applicant's statement and available military records, the Board determined there is no evidence of the existence or an error or injustice. Unfortunately, the applicant received the monetary entitlement in which his records ultimately corrected and therefore the debt is accurate. Based on this the Board determined relief was not warranted, including the partial approval from the U.S. Army Human Resources Command.

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.

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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. Army Regulation (AR) 15–185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. In pertinent part, it states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR will decide cases based on the evidence of record. It is not an investigative agency.
2. 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 Army. Requests for remission or cancellation of indebtedness must be based on injustice, hardship, or both. In accordance with the authority of Title 10, U.S. Code (USC), section 7837 and/or Title 32, USC section 710(c), 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.
3. Title 10, USC, section 7837 (Settlement of accounts: remission or cancellation of indebtedness of members) states, the Secretary of the Army may have remitted or cancelled any part of the indebtedness of a person to the United States or any instrumentality of the United States incurred while the person was serving as a member of the Army, whether as a Regular or a Reserve in active status, but only if the Secretary considers such action to be in the best interest of the United States.

//NOTHING FOLLOWS//