

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 29 January 2025

DOCKET NUMBER: AR20240003290

APPLICANT REQUESTS: in effect:

- remission, cancellation, or waiver of his debt in the amount of \$10,340.01
- appeal of the U.S. Army Human Resources Command's (HRC) decision of partial approval to reduce his debt by \$1,034

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant's Submitted Debt Remission Packet:
 - Defense Finance and Accounting Service (DFAS) Memorandum, subject: Filing for Remission/Cancellation of Your Debt
 - Army Military Pay Office Memorandum, subject: Notice of Indebtedness for [Applicant]
 - Military Pay Office, Fort Cavazos, TX Memorandum, subject: Recommendation Regarding Remission, Cancellation, or Waiver of Claim
 - DA Form 3508 (Application for Remission or Cancellation of Indebtedness)
 - DA Form 2823 (Sworn Statement)
 - Headquarters and Headquarters Company, 1st Battalion, 5th Cavalry Division Memorandum, subject: Remission/Cancellation of Debt for [Applicant]
 - 1st Battalion, 5th Cavalry Division Memorandum, subject: Remission/Cancellation of Debt for [Applicant]
 - Two DFAS Military Leave and Earning Statements

FACTS:

1. The applicant states due to an error in his basic active service date (BASD), he was getting paid more than he should have. Upon discovery, he immediately started paperwork to get it fixed. The person in charge of that paperwork failed to do his job of filing it in a timely manner until it became an issue for the applicant to get him to extend his contract. He made every attempt possible in order to fix the error and feels that he should not be in debt to the Army.

2. The applicant provides his debt remission packet.

a. Through a signed sworn statement, the applicant states: his time in service was incorrect on his enlisted record brief. He and Sergeant First Class W__ went to the unit career counselor, Staff Sergeant (SSG) B__ to discuss and fix the issue repeatedly. There was no progress on fixing it until February 2023 when he entered his reenlistment zone. SSG B__ informed the applicant that it would need to be fixed and he would start the paperwork immediately. On 15 May 2023, SSG B__ submitted the case. The applicant filled out the form and sent the paperwork back on 30 July 2023 to SSG B for approval and forwarding to finance. On 22 August 2023, the applicant was forwarded an e-mail to contact a military pay technician in debt management at Fort Cavazos and he was provided the packet to complete, which he did and submitted the next day. The applicant was informed the debt collection process would not start until he returned from rotation; however, \$715.14 was taken from his pay as part of the debt collection.

b. The applicant completed the debt remission packet with application due to an overpayment of correction to his base pay from 14 October 2021 to 30 June 2023, with chain of command endorsements, and provided leave and earning statements.

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

a. He enlisted in the U.S. Army Reserve (USAR) as a U.S. Military Academy cadet on 20 July 2015.

b. He served on active duty as a USAR cadet from 20 July 2015 to 26 June 2016.

c. His record contains Installation Management Command Orders 101-0041, dated 11 April 2017, which show he was released from active duty as a Soldier currently serving as a cadet at the U.S. Military Academy and assigned to USAR Control Group (Reinforcement), effective 26 June 2016.

d. The applicant served on active duty as a cadet from 27 June 2016 to 25 March 2020. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was released and ordered to active duty in another status.

e. On 4 January 2021, the applicant enlisted in the Regular Army.

f. He continues service in the Regular Army.

4. An advisory opinion from the Office of the Deputy Chief of Staff G-1 was received in the processing of this case. On 17 January 2025, a financial management specialist with the military pay branch recommended disapproval of the applicant's request.

a. [Applicant] had previously requested the cancellation of the debt amounting to \$10,340.01. This request was partially approved by HRC, resulting in a reduction of the debt by \$1,034. Their office supports HRC's decision.

b. [Applicant] was aware his years of service were recorded incorrectly, which led to an overpayment of base pay due to the incorrect pay entry base date. There is no evidence indicating he sought assistance from his commander or senior enlisted noncommissioned officer to correct this error.

5. On 22 January 2025, the applicant was provided with a copy of the advisory opinion for review and/or comment.

BOARD DISCUSSION:

1. 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 and standard review based on law, policy and regulation. One potential outcome was to deny relief based on the advising opinion recommendation for disapproval finding the applicant was aware his years of service were recorded incorrectly. However, upon review of the applicant's request, available military records and the Deputy Chief of Staff – G-1 – Financial Management Specialist Military Pay Branch advisory opinion, the Board notwithstanding the advising official opine recommendation for disapproval.

2. The Board determined there is sufficient justification to grant relief for the cancellation of the applicant's remaining debt in the amount of \$10,340.01. The record shows the debt resulted from an error in his Basic Active Service Date (BASD), which led to an overpayment in base pay, which was acknowledged by the applicant. The Board agreed, upon discovering the discrepancy, the applicant took immediate steps to correct the issue, including repeated engagement with his unit career counselor and submission of the necessary paperwork. However, delays caused by administrative inaction outside of the applicant's control prolonged the resolution process and ultimately led to the debt being incurred.

3. The Board noted, the applicant's sworn statement and supporting documentation—including his debt remission packet, chain of command endorsements, and leave and earnings statements, demonstrating a good-faith effort to resolve the error. The Board found the applicant who is still serving was transparent throughout the process and acted responsibly once made aware of the issue. Notably, the U.S. Army Human Resources Command (HRC) partially approved his request by reducing the original debt of \$10,340.01 by 10%, resulting in a remission in the amount of \$1,034. The Board

found HRC's partial approval further supports the presence of administrative error and reinforces the applicant's claim that he took appropriate steps to correct the issue.

4. Furthermore, the Board acknowledged the advisory opinion citing a lack of evidence that the applicant sought assistance from his commander or senior NCO, the record reflects that he worked directly with the designated career counselor and followed the appropriate channels. With that, the Board found that holding the applicant financially liable for an error he did not cause and actively attempted to correct would constitute an injustice. Based on this, the Board granted relief for full cancellation of the remaining debt in the interest of equity and fairness.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	XXX	XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	:	:	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 notifying DFAS that the applicant's debt in the amount of \$10,340.01 has been relieved. Direct the Department of the Army, the Department of the Treasury and DFAS to immediately cease all recoupment efforts and garnishment.

X //SIGNED//

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. 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.
2. 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//