

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 June 2025

DOCKET NUMBER: AR20240003405

APPLICANT REQUESTS: remission or cancellation of his indebtedness for the recoupment of his enlisted bonus in the amount of \$3,964.08 plus interest and fees.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Defense Finance and Accounting Service (DFAS) letter dated 18 October 2005 which notified the applicant:
  - Indebtedness was for the recoupment of the unearned portion of his enlistment bonus
  - He had 1,424 unserved days
  - DFAS calculation sheet stated the applicant was Absent Without Leave (AWOL) during the period of 15 December 2004 through 16 March 2005
- Department of the Treasury Internal Revenue Service W-2 Form (Wage and Tax Statement) for 2005 which shows the applicant earned \$990.68 for the year
- Department of the Treasury letter dated 5 May 2023 stated the U.S. Department of the Treasury, Bureau of the Fiscal Service applied all or part of his payment to a delinquent debt, \$3,784.45 was applied to his delinquent debt with DFAS

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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:

- The current enlistment bonus recoupment stated he was AWOL during the period of 15 December 2004 through 16 March 2005, which is inaccurate

- His DD Form 214 stated he was AWOL during the period of 15 December 2004 through 2 January 2005, which was his holiday leave
- The reason that period was referenced as AWOL, was his chain of command could not reach him by telephone
- The remainder of time he served dutifully, despite his pay was incorrect and had not been corrected
- He lived off the enlistment bonus funds
- He requests the recoupment amount be recalculated to match his service as shown on his DD Form 214
- His request should be granted given the Army paid him so little in 2005
- Because the Internal Revenue Service collect the debt, he worked for free during the period of 2 January through 18 March 2005

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

- On 3 March 2004, he enlisted in the Regular Army (RA)
- The statement for Enlistment U.S. Army Enlistment Program, U.S. Army Delayed Enlistment Program shows:
  - He enlisted in the RA for a period of 5-years
  - He enlisted for the U.S. Army Incentive Enlistment Program
  - He was assured to attend the school course for the military occupational specialty of 18X (Special Forces Recruit)
  - Cash bonus in the amount of \$13,000.00
  - Cash bonus amount was authorized upon his entry into the Delay Entry Program
- DD Form 1966 (Record of Military Processing – Armed Forces of the United States) shows in item 32 (Specific Option/Program Enlisted For), he enlisted for:
  - U.S. Army Training Enlistment Program
  - U.S. Army Incentive Enlistment Program
  - MOS 18X
  - 5-years
- On 16 December 2004, his duty status was changed to AWOL, effective 15 December 2004
- On 17 December 2004, Private First Class T-S- provided a written statement which stated:
  - The applicant approached him stating he wanted to go home on leave
  - He asked the applicant if he received permission

- The applicant told him "not yet"
- He told the applicant to get permission and he would cover his shift
- The next day the applicant told him everything was okay, so he covered the applicant's shift
- On 17 December 2004, he told the barracks manager he was tired because he worked charge of quarters for 48-hours straight because he covered the applicant's shift
  
- DA Form 31 (Request and Authority for Leave) shows the applicant was approved for leave for the period of 18 December 2004 through 2 January 2005 with the leave address in Closter, New Jersey
  
- On 4 January 2005, Sergeant B-R- provided a written statement which stated:
  - The applicant was being considered for a chapter from the U.S. Army
  - He was informed the applicant had a contract which stated if a Soldier was unable to obtain a security clearance his contract would be terminated
  - Further investigation revealed the applicant was unable to obtain a security clearance because he refused to renounce his Russian citizenship, therefore he refused to obtain a security clearance
  - When asked if the applicant would serve in a line unit, the applicant told him that if he could not be in the Special Forces he wanted out of the U.S. Army
  - He overheard other Soldiers talking about the applicant stating the applicant told them it was approved he could leave early for approved leave if he could get someone to cover his shift and the applicant was going to Russia
  - The applicant's duty status was changed to AWOL
  - The applicant's approved leave was pulled because of misconduct
  - When the applicant returned, he was disrespectful to Sergeant First Class (SFC) S- and became arrogant and mad
  
- On 4 January 2005, SFC S- provided a written statement which stated:
  - He found out the applicant left the installation and local area on or about 14 December 2004
  - He found out the applicant swapped his shift with another Soldier
  - He found out the applicant stated swapping of shifts and leaving early was approved by him which was false
  - He attempted to contact the applicant via telephone listed on the DA Form 31 but was unable to reach anyone
  - Upon the applicant's return he spoke with the applicant, and he admitted he left early and stated he saw no reason it would be a problem

- The applicant stated though [REDACTED] was one of his stops but he also had gone to [REDACTED] and other places
  - When he told the applicant that he did not have an approved leave or the appropriate briefings to leave the continental United States, he simply stated "so what, it is not a big deal"
  - The applicant stated he did not have to follow orders because he was not treated like a Soldier
  - The applicant became disrespectful and when he was told to stand a parade rest when speaking to him the applicant became agitated and felt harassed
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- On 4 January 2005, his duty status was changed to present for duty
  - On 5 January 2005, he was flagged for suspension of favorable personnel action due to adverse action
  - The applicant was notified his commander was initiating separation from the Army for commission of a serious offense for receipt of an Article 15 (void from the applicant's service record) and AWOL for the period of 15 December 2004 through 3 January 2005 (the notification was not dated)
  - On 16 February 2005, the applicant met with counsel and was advised of his rights
  - His commander subsequently initiated his separation for commission of a serious offense and recommended he receive a general under honorable conditions discharge (the document was not dated)
  - His battalion commander recommended he be separated for commission of a serious offense with a general under honorable conditions discharge (the document was not dated)
  - The separation authority approved the separation and directed he receive a general under honorable conditions discharge
  - On 16 March 2005, the applicant was assigned to the U.S. Army transition point for discharge from the RA by Orders Number 067-0276, dated 8 March 2005
  - On 18 March 2005, he was discharged from active duty with a general under honorable conditions discharge for misconduct, DD Form 214 shows he completed 11-months and 27-days of active service, and his lost time was during the period of 15 December 2004 through 2 January 2005
4. On 24 November 2024, in the processing of this case, the Deputy Chief of Staff G1 provided an advisory opinion regard the applicant's request for remission or cancellation of his indebtedness for unearned portion of his enlistment bonus. The advisory official recommended disapproval of his request. The applicant enlisted in the Regular Army for 5-years and was separated on 18 March 2005 with 18-days of being AWOL. The applicant completed 11-months and 27-days of his service obligation. The applicant was scheduled for approved leave during the period of 18 December 2004 through 3 January 2005. However, the leave was cancelled due to his misconduct. The applicant departed his duty station early after he had another Soldier assume his

military duties without authority. Additionally, he violated the Army policy by visiting Russia without the mandated force protection briefing.

5. On 26 November 2024, the Army Review Boards Agency, Case Management Division, provided the applicant the advisory opinion for review and comment. He did not respond.

BOARD DISCUSSION:

1. 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 and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and the Deputy Chief of Staff G1 advisory opinion, the Board concurred with the recommendation for disapproval. The Board determined that the applicant enlisted in the Regular Army for a five-year term but was separated on 18 March 2005, having been absent without leave (AWOL) for 18 days.

2. Records indicate that the applicant completed 11 months and 27 days of his service obligation. He was scheduled for approved leave from 18 December 2004 through 3 January 2005, but his leave was canceled due to his own misconduct. Subsequently, the applicant departed his duty station early and arranged for another Soldier to assume his military duties without authority. Additionally, he violated Army policy by traveling to Russia without the required force protection briefing. The Board further determined that the applicant was unable to obtain a security clearance because he refused to renounce his Russian citizenship, effectively rendering him ineligible for clearance. Based on the preponderance of evidence, the Board found that the applicant's request for remission or cancellation of his indebtedness—stemming from the recoupment of his enlisted bonus in the amount of \$3,964.08 plus interest and fees—lacked merit. As such, the Board denied relief.

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.



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, U.S. Code, 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 37 USC, section 331 (General bonus authority for enlisted members), (a) The Secretary concerned may pay a bonus under this section to a person, including a member of the armed forces, who:

- enlists in an armed force
- enlists in or affiliates with a reserve component of an armed force
- reenlists, voluntarily extends an enlistment, or otherwise agrees to serve for a specified period in a designated career field, skill, or unit of an armed force
- under other conditions of service in an armed force

(g) (Repayment), a person or member who receives a bonus under this section and who fails to complete the period of service, or meet the conditions of service, for which the bonus is paid, as specified in the written agreement under subsection (d), shall be subject to the repayment.

3. Army Regulation (AR) 601-210 (Regular Army and Army Reserve Enlistment Programs) in effect at the time, prescribes eligibility criteria governing the enlistment of persons, with or without prior service (PS), into the Regular Army (RA) and the Army Reserve (AR).

a. Paragraph 2-2. Basic eligibility criteria for all non-prior service applicants Persons who apply for enlistment in the RA, or the Army Reserve must meet eligibility criteria of this chapter and any other requirements for the MOS in which they are enlisting.

b. Paragraph 9-9 (Enlistment Program 9C, U.S. Army Incentive Enlistment Program) (Enlistment Bonus, Army College Fund, Loan Repayment Program), this program is available to qualified NPS, PS, Glossary NPS, and ACASP applicants enlisting for the minimum term of enlistment, when authorized by HQDA Enlistment Incentives Message. Incentives will be offered using REQUEST, and message will be updated quarterly. All enlistees must meet the prerequisites before and after enlistment per DA PAM 611-21. Primary Incentive Enlistment Options available for enlistment are available in REQUEST as offered and determined by HQDA, DCS, G-1 (DMPM). (a) Enlistees who voluntarily or because of misconduct, fail to satisfactorily complete AIT or OSUT will be trained in another MOS. They will complete their term of enlistment based upon the needs of the Army, unless separated for administrative or disciplinary reasons. In the above instances, the bonus will not be paid. (b) Enlistees who, through no fault of their own, fail to satisfactorily complete AIT or OSUT in the MOS for which originally enlisted will be given a chance for training in another MOS and be retrained in the Army, or released from active duty if they so desire. If retrained and the new MOS is authorized an enlistment bonus, enlistee will be entitled to payment upon satisfactorily completing AIT or OSUT. The dollar value will be determined by the MOS for which trained. (d) Soldiers paid the EB must (unless otherwise directed by HQDA) serve in the designated MOS for the period of enlistment. (e) Persons who do not complete their term of enlistment voluntarily or because of misconduct will be required to refund the percentage of the bonus that corresponds to the un-expired part of the total enlistment period (such as the unearned portion of the bonus). Persons who immediately reenlist before completion of the term of service for which a bonus was paid will not be subject to repayment of bonus if reenlistment period exceeds remaining enlistment bonus period by at least 2-years. Unserved bonus period may not be used for SRB computation.

4. 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.

//NOTHING FOLLOWS//