

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 November 2024

DOCKET NUMBER: AR20240003520

APPLICANT REQUESTS: reimbursement of her monies forfeited from an Article 32 hearing.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored statement
- DA Form 2627 (Record of Proceedings Under Article 15, Uniform Code of Military Justice (UCMJ))

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 requests the reimbursement of her monies that were taken from her in error and may be related to the Article 32 hearing. In the DA Form 2627, the punishment that was imposed was a reprimand and she was fined one-half month's pay in the amount of \$4,099.00 for 2-months which was taken while she was on active duty.

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

a. On 8 July 1978, the applicant executed her oath of office and was appointed as a Reserve commissioned officer.

b. On 1 August 1978, Orders Number 08-66647, issued by the Office of the Adjutant General Reserve Components Personnel and Administration Center, assigned the applicant to a U.S. Army Reserve (USAR) Troop Program Unit, effective 8 July 1978.

c. On 23 July 2005, Orders Number 05-204-00069, issue by the 81st Regional Support Command, ordered the applicant to active duty in support of Operation Enduring Freedom, effective 22 August 2005.

d. On 7 August 2007, Orders Number A-08-717255, issued by the U.S. Army Human Resources Command (AHRC), ordered the applicant to active duty for Contingency Operation for Active Duty Operational Support (CO-ADOS), effective 22 August 2007.

e. On 24 June 2008, Orders Number A-06-811676, issued by AHRC, ordered the applicant to active duty for CO-ADOS, effective 21 August 2008.

f. On 23 June 2009, Orders Number A-06-917915, issued by AHRC, ordered the applicant to active duty for UCMJ processing, effective 21 August 2009. The additional instructions stated she was relieved from her Reserve component assignment on the day proceeding the effective date of this order. She would be retained on active duty in current grade and was included in the active Army end strength.

g. On 24 November 2009, the applicant accepted non-judicial punishment under the provisions of Article 15, UCMJ, of one specification of making fraudulent documents and false statements during the period of 27 October 2005 through 7 October 2008 regarding rental payments in the amount of \$4,800.00 per month and one specification of during the period of 27 October 2005 through 14 April 2008 made fraudulent rental documents and made false statements regarding paying rent in the amount of \$4,800.00 per month. Her punishment was forfeiture of \$4,099.00 per month for 2 months and a reprimand. The applicant did not appeal the findings or the punishment.

h. On 28 February 2010, the applicant was honorably released from active duty. DD Form 214 shows the applicant completed 4-years, 6-months, and 9-days of active service.

i. On 5 March 2010, Orders Number C-03-003469, issued by ARHC, assigned the applicant to the USAR Control Group (Reinforcement), effective 5 March 2010.

j. On 7 April 2010, Orders Number C-04-005298, issued by AHRC, assigned the applicant to the USAR Control Group (Retired Reserve), effective 2 April 2010.

k. On 10 April 2014, Orders Number C04-492776, issued by AHRC, assigned the applicant to the retired list, effective 12 April 2014.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation reflecting that all charges affiliated with the Article 32 hearing were dismissed as a part of the applicant's pretrial agreement, the Board concluded there was insufficient evidence of an error or injustice warranting relief. All monies recouped from the applicant appear to be from the punishment on the General Officer Article 15, which shows a processing completing date of 8 January 2010, which date is later than the Article 32 hearing and may have confused the applicant. The Board found no evidence showing the applicant had the monies recouped twice; therefore, the Board concluded there is no error warranting relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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|---|---|---|----------------------|
| : | : | : | 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.

X [REDACTED]

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 27-10 (Military Justice), in effect at the time, prescribes the policies and procedures pertaining to the administration of military justice and implements the Manual for Courts-Martial, United States, 2000 (MCM) and the Rules for Courts-Martial contained in the MCM.

a. Paragraph 3-19b (7), (Forfeiture of pay.), (a) Limitations, forfeitures imposed by a company grade commander may not be applied for more than 1-month, while those imposed by a field grade commander may not be applied for more than 2-months; for example, a company grade commander may impose a forfeiture of 7-days pay for 1-month but may not impose a forfeiture of 3-days pay per month for 2-months. If a forfeiture of pay has been imposed in addition to a suspended or unsuspended reduction in grade, the amount forfeited will be limited to the amount authorized for the reduced grade. The maximum forfeiture of pay to which a Soldier is subject during a given month, because of one or more actions under Article 15, is one-half of the Soldier's pay per month. Article 15 forfeitures will not (in conjunction with partial forfeitures adjudged by court-martial) deprive a Soldier of more than two-thirds of the Soldier's pay per month. (b) Retired Soldiers, forfeitures imposed under Article 15 may be applied against a Soldier's retirement pay.

b. Paragraph 3-23 (Clemency), the imposing commander, a successor-in-command, or the next superior authority may, in accordance with the time prescribed in the MCM:

- remit or mitigate any part or amount of the unexecuted portion of the punishment imposed
- mitigate reduction in grade, whether executed or unexecuted, to forfeiture of pay
- at any time, suspend probationally any part or amount of the unexecuted portion of the punishment imposed
- suspend probationally a reduction in grade or forfeiture, whether or not executed, an uncollected forfeiture of pay will be considered unexecuted

c. Paragraph 3-24 (Suspension), ordinarily, punishment is suspended to grant a probational period during which a Soldier may show that the soldier deserves a remission of the remaining suspended punishment. An executed punishment of

reduction or forfeiture may be suspended only within a period of 4-months after the date imposed.

//NOTHING FOLLOWS//