

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 December 2024

DOCKET NUMBER: AR20240004048

APPLICANT REQUESTS: remission/cancellation of indebtedness for overpayment of pay and allowances in the amount of \$9,833.53 and reimbursement of monies collected due to the indebtedness.

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

- DD Form 149 (Application for Correction of Military Record)
- Accounts receivable document
- U.S Property and Fiscal Office (USPFO) Memorandum last page
- [REDACTED] Army National Guard (ARNG) Memorandum, Subject: Letter of Recommendation for Remission of Debt for Major (MAJ) [REDACTED] (the applicant)
- DA Form 2823 (Sworn Statement)
- DA Form 3508 (Application for Remission or Cancellation of Indebtedness)
- Leave and Earnings Statement (LES)
- Email with the [REDACTED] ARNG
- Email with the [REDACTED] ARNG

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 remission or cancellation of her indebtedness for the overpayment of pay and allowances in the amount of \$9,833.31 which she does not owe and the reimbursement of all monies that were already collected from her pay. She requests this as the Army owes her the money which was wrongfully taken out of her pay. In May 2018 she was at [REDACTED] Joint Force Headquarters (JFHQ) for a month on One Time Occasional Tour (OTOT) orders. Afterwards, instead of returning to a M-Day status she was still paused in an active duty position and accrued a dent for active duty benefits she did not receive.

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

a. On 20 September 2013, the applicant executed her oath of office and was appointed a Reserve commissioned officer. She was subsequently executed an oath of office with the [REDACTED] ARNG.

b. On 11 May 2015, Special Orders Number 94, issued by the National Guard Bureau (NGB), the applicant was appointed in the [REDACTED] ARNG.

c. On 1 May 2018, Orders Number 121-332, issued by the State of [REDACTED] Office of the Adjutant General, the applicant was ordered to Annual Training (AT) during the period of 1 through 15 May 2018.

d. On 2 May 2018, Orders Number 122-579, issued by the State of [REDACTED] Office of the Adjutant General, the applicant was ordered to AT during the period of 16 through 30 May 2018.

e. On 2 May 2018, Orders Number 122-4003, issued by the JFHQ [REDACTED] ARNG, the applicant was ordered to active duty in an Active Guard/Reserve status for a period of 31-days during the period of 1 through 31 May 2018.

f. On 5 June 2018, Orders Number 156-1000, issued by the JFHQ [REDACTED] ARNG, the applicant was released from active duty, effective 31 May 2018.

g. On 8 June 2018, Orders Number 160-363, issued by the State of [REDACTED] Office of the Adjutant General, revoked Orders Number 121-332.

h. On 30 September 2019, Special Orders Number 277, issued the NGB, the applicant was reassigned to the [REDACTED] ARNG, effective 18 September 2019.

i. NGB Form 23A (ARNG Current Annual Statement) dated 11 February 2021 shows the applicant obtained active duty points during the period of 1 through 31 May 2018.

j. NGB Form 23A dated 20 September 2022 shows that during retirement year 20 September 2017 through 19 September 2018 the applicant obtained 50 inactive duty training points, 15 membership points, and 8 active duty points for a total of 73 creditable points.

k. NGB letter notified the applicant she was discharged from the ARNG effective 31 October 2023 and all Reserve of the Army of the United States appointments were terminated.

l. On 31 October 2023, the applicant was honorably discharged from the ARNG due to resignation. NGB Form 22 (Report of Separation and Record of Service) shows the applicant completed 10-years, 1-month, and 12-days of service.

m. On 7 November 2023, Orders Number 6501811, issued by the [REDACTED] ARNG, the applicant was separated from the [REDACTED] ARNG, effective 31 October 2023.

n. On 11 January 2024, Special Orders Number 17, issued by the NGB, the applicant's Federal recognition was withdrawn, effective 31 October 2023.

4. The applicant provides:

a. An accounts receivable document which shows:

- 4 May 2022 - \$495.17 was collected from her pay
- 25 May 2022 - \$78.30 was collected from her pay
- 15 June 2022 - \$1,123.72 was collected from her pay
- \$9,833.53 - original debt
- \$8,136.34 - current debt
- Deduction of two-third pay
- 1 May 2022 – collection start date
- 31 May 2018 – debt start date
- 31 May 2018 – debt stop date

b. Last page of USPFO memorandum stated manual transactions were completed to adjust the applicant's pay for the period of 1 June through 31 October 2018 as a system adjustment for overpayments for the period of 1 November 2018 through 31 August 2019. The final calculations had shown the gross amount due to the U. S. Government was greater than the net amount of entitlements that were remaining in held pay. The final taxable debt amount was \$27,639.00. After the secondary adjustments the debt balance was reduced to \$9,833.53. On 14 January 2022, the debt amount of \$9,833.53 plus interest in the amount of \$16.46 and a \$10.00 administrative fee was entered into the Defense Joint Military. Pay System – Reserve Component (DJMS-RC) Master Military Pay Account (MMPA), As of the 14 April 2023 LES the applicant had an unpaid debt balance of \$3,772.59.

c. [REDACTED] ARNG Memorandum, Subject: Letter of Recommendation for Remission of Debt for [Applicant], dated 8 November 2023 stated the Deputy State Surgeon recommended the applicant's debt be cancelled and that she be reimbursed for money already collected from her pay. The applicant was on active duty orders during the period of 1 through 31 May 2018. There was an issue with the orders that were published as the type of duty performed could not be 31-days or less. Her orders were amended to go beyond 31 May 2018 for a new end date of 30 June 2018. However, pay

system error caused her base pay to continue after her orders end date. The error was not identified until August 2019; however, collection did not begin until 14 January 2022 in the amount of \$9,833.53. The debt was due to no fault of her own.

d. DA Form 2823 where the applicant stated she was on orders in May 2018 and her pay was paused instead of terminated to convert back to M-day status. This caused her to incur a debt as her pay did not stop. In October 2019, the applicant transferred to the [REDACTED] ARNG and was made aware of her indebtedness in early 2022. Her wages were garnished despite her contacting her former [REDACTED] ARNG unit and working through the [REDACTED] ARNG finance office. She was told that once she paid the debt in the amount of \$9,833.53, the issue would be rectified and she would receive her money back. However, she was discharged from the ARNG on 30 June 2023 before she paid the debt and was repaid.

e. DA Form 3508 shows the applicant applied for remission or cancellation of her indebtedness which was incurred on 30 May 2018 due to an injustice.

f. LES dated 1 December 2023 shows the applicant had a pay and allowance debt balance in the amount of \$3,410.60 from an original debt of \$9,833.53 dated 31 May 2018. She also had a collection for meals on 25 June 2022 in the amount of \$9.50 and again on 6 November 2022 in the amount of \$10.50 for a total unpaid debt balance of \$3,430.60.

g. Email with the [REDACTED] ARNG dated 27 June 2022 which stated they could see the applicant's account and they did not have a record of the debit transaction.

h. E-mail with the [REDACTED] ARNG dated 23 January 2024 which stated she had orders for a month and the order was republished for greater than a month. She performed duty for 1-month but her pay was not terminated when the duty was over. The pay system was obligated to pay funds for the entire period of the orders but did not distribute the funds. When the [REDACTED] ARNG determined the error, it caused a debt. She would be paid the money back but she must pay the indebtedness. She could request a debt payment acceleration or remission of the indebtedness.

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 available military records, the Board found the applicant was overpaid based on her orders not terminating. Unfortunately, the applicant received

a payment she was not entitled which resulted in a collection of that payment. Based on this the Board determined relief was not warranted.

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.

3/26/2025

X

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) in accordance with the authority of Title 10 USC, section 4837, 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. Indebtedness to the U.S. Army that may not be canceled under Title 10 USC, section 4837 when the debt is incurred while not on active duty or in an active status.

3. Department of Defense Financial Management Regulation 7000.14-R, Volume 7A (Military Pay Policy– Active Duty and Reserve Pay),

a. Chapter 1 (Basic Pay), cites conditions for the payment of military pay entitlements. Members are entitled to receive pay according to their pay grades and years of service if they are: on active duty in a pay status and not prohibited by law from receiving such pay. Compute monthly compensation as if each month had 30-days. When service begins on an intermediate day of the month, pay for the actual number of days served during that calendar month, but only through the 30th day of that month. If active military service begins on the 31st day of any month, compensation does not accrue for that day. Any person who enters active service during February and serves until the end of the month is entitled to pay for 1-month (30-days), less the prorated amount for the number of days expired before entry on duty. If the service ends before the last day of February, pay the member only for the actual number of days serve.

b. Chapter 57 (Reserve Entitlement for Active Duty), a Reserve component (RC) member may, with the member's consent, be ordered to active duty without pay when authorized by the Secretary of the Military Department concerned. A RC member may be paid the equivalent of more than 360-days of pay in a year, when so directed, this total is based on a combination of active pay and inactive duty training pay. A RC member cannot be paid inactive duty pay on any day that the member is entitled to active duty pay. When a member is ordered to AD for 30-days or more, and a tour of duty starts on the first day or an intermediate day of a calendar month, the member is entitled to pay and allowances through the 30th day. Payment is not authorized for the 31st day of a calendar month. This includes a member who is ordered to AD for less than 30-days and is continued on AD for 30-days or more by new orders or an amendment to the original orders. When computing the number of days for which pay is

due, include the entire period the member actually serves on AD, including allowable travel time.

//NOTHING FOLLOWS//