

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 January 2025

DOCKET NUMBER: AR20240004262

APPLICANT REQUESTS:

- Remission and cancellation of a debt to the Defense Accounting and Finance Service (DFAS)
- Reimbursement of an erroneous debt collection made by the Department of Treasury

APPLICANT'S SUPPORTING DOCUMENT CONSIDERED BY THE BOARD:

DD Form 149 (Application for Correction of Military Record)

FACTS:

1. The applicant states, in effect, the Department of Treasury erroneously garnished his Federal Tax Return in the amount of \$3,626.26. He retired in 2019 and was unaware of this debt. When he inquired about the origins of the debt, he was informed it was imposed in 2008.
2. The applicant enlisted in the U.S. Army Reserve on 13 November 2002. He continued to serve through a series of reenlistments and was promoted to the rank/pay grade of sergeant first class (SFC)/E-7 on 1 October 2015.
3. On 24 October 2017, a Physical Evaluation Board (PEB) convened to consider the applicant's medical conditions and determine his disposition for service. The PEB found he was physically unfit and recommended a disability rating of 80 percent. The PEB further recommended the applicant's disposition be placement on the Temporary Disability Retirement List (TDRL) with a reexamination during April 2019.
4. A DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant was honorably retired in the rank/pay grade of SFC/E-7 on 12 February 2018 under the provisions of Army Regulation 635-40 (Disability Evaluation for Retention, Retirement, or Separation) due to "Disability, Temporary (Enhance)."

5. On 21 July 2020, a PEB convened to reevaluate the applicant's medical conditions and determine his disposition for service. The PEB found he was physically unfit and recommended a disability rating of 90 percent. The PEB further recommended the applicant's disposition be Permanent Disability Retirement.

6. Orders show he was removed from the TDRL on 4 August 2020.

7. On 18 November 2024, a member of the DFAS, Correction of Records/Claims Debt and Claims Management Office stated the applicant's debt had been paid off. She provided a copy of the original debt letter sent to the applicant and screen prints explaining the reasons for the debt.

a. The DFAS debt notification letter was sent to the applicant on 3 February 2009. The applicant was informed the organization maintaining his active-duty military pay account had advised DFAS that he was indebted to the Department of Defense as a result of overpayments before his recent separation. He was further informed that his enclosed account statement explained the reason for the debt. He was advised to contact DFAS immediately if he believed the debt was invalid. He was further advised that he could avoid interest, administrative charges, and penalties by paying the debt in full within 30 days. DFAS encouraged prompt payment since they must charge interest at the current Treasury Department tax and loan account rate and an administrative charge to cover their delinquent debt collection costs on any amount not paid within 30 days.

b. The applicant's account statement showed he incurred a debt of \$27.00 for collection of Servicemembers' Group Life Insurance premiums for the period of July 2008. He was not attending drills and premiums were made on his behalf at the rate he elected. The statement also showed he incurred a debt of \$1926.80 as repayment of a travel advance he had received on 22 July 2008.

c. A screen print from the applicant's Master Pay Record shows the Treasury Department garnished the applicant's wages in the amount of \$3,601.98 including interest and administrative fees on 1 March 2024.

8. On 12 December 2024, the Department of the Army, Deputy Chief of Staff G-1, Military Pay Branch provided an advisory opinion, wherein they recommended approval of the applicant's application for administrative relief to cancel his debt.

a. DFAS records show the applicant spoke with officials concerning his debt being collected from his Active Guard Pay (AGR). On 19 March 2009, DFAS transferred his debt to be collected from his AGR pay. Records show the debt of \$1,940.33 was garnished from his account. The debt was transferred to his AGR pay and paid in full.

b. If approved, the applicant would be due a refund of \$3,601.98 based on the debt amount and treasury fees collected.

9. On 12 December 2024, the applicant was provided a copy of the advisory opinion and afforded an opportunity to provide comments. To date, the applicant has not responded.

10. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was/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 Department of the Army, Deputy Chief of Staff – G-1 Military Pay Branch advisory opinion, the Board concurred with the advising opinion recommendation for approval of finding remission and cancellation of the debt and reimbursement of the erroneously collected amount of \$3,601.98, as the debt had already been satisfied through prior garnishment.

2. The Board found the applicant incurred a debt related to Servicemembers' Group Life Insurance premiums and a travel advance in 2008. Although DFAS transferred the debt to be collected from his Active Guard Reserve (AGR) pay in 2009 and the debt was paid in full, the Department of the Treasury later garnished an additional \$3,601.98 from the applicant's wages in March 2024, including interest and administrative fees. The Board agreed, based on the opine, relief for remission and cancellation of a debt to the Defense Accounting and Finance Service (DFAS) and reimbursement of an erroneous debt collection made by the Department of Treasury. As such, the Board granted relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
XXX	XXX	XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	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 show remission and cancellation of a debt to the Defense Accounting and Finance Service (DFAS) and reimbursement of an erroneous debt collection made by the Department of Treasury in the amount of \$3,601.98.

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. 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. Army Regulation 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//