

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 November 2024

DOCKET NUMBER: AR20240005691

APPLICANT REQUESTS: cancellation or remission of his Reserve Officers' Training Corps (ROTC) scholarship indebtedness due to his service and removal of the debt from his credit report.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored statement
- Santa Clara University Memorandum, Subject: Notification of Disenrollment from the ROTC – Due Process and Appellate Rights of Scholarship / Non-scholarship – Cadet Z- W- (the applicant)
- ROTC Santa Clara University Orders Number 17062-01
- DD Form 785 (Record of Disenrollment from Officer Candidate – Type Training)
- DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States)
- DD Form 1966 (Record of Military Processing – Armed Forces of the United States)
- DA Form 5689 (Oath of Reenlistment)
- Defense Finance and Accounting Service response
- Department of the Treasury Bureau of the Fiscal Service letter
- Character reference from Specialist (SPC) K-W-
- DFAS Out of Service Debt pay confirmation

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 correction or updating of credit reports is not within the purview of the ABCMR, so, this portion of the applicant's request will not be considered by the Board.

3. The applicant states he requests the cancellation of his ROTC scholarship indebtedness due his election of active-duty military service in lieu of repayment. He was enrolled in the Santa Clara University ROTC program during the period of 2013 through 2017. When he was disenrolled from the program he elected to serve in the military in lieu of repaying the monies he received from the advanced financial assistance. He assumed his request was denied since he did not receive any further correspondence. His disenrollment papers show that he elected to serve vice repayment. His completed 4-years of service should fulfill the ROTC repayment and he plans to serve for more than 20-years. In 2019, he received his first letter regarding repayment of his scholarship. He was unable to enlist upon his disenrollment as he needed medical waivers for previous injuries and surgeries.

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

- a. On 21 January 2014, the applicant enlisted in the U.S. Army Reserve (USAR) as a cadet and was assigned to the USAR Control Group (ROTC).
- b. Enlisted Record Brief shows the applicant's pay entry base date and his basic active service date as 4 November 2019 with an expiration term of service as 15 August 2026.
- c. DA Form 597-3 (Army Senior ROTC Scholarship Cadet Contract) shows the Army agreed to pay 3 and one-half academic years of scholarship benefits in the form of tuition and fees up to an annual amount of \$10,000.00 plus a flat rate of \$1,200.00 in books and laboratory expenses. In turn the applicant agreed to enroll in the necessary courses and successfully complete within the prescribed time required for a degree in his selected academic major and remain enrolled in and successfully complete the ROTC program with a minimum academic grade point average of 2.0. Paragraph 5 (Terms of Disenrollment) stated the applicant understood if he was disenrolled from the ROTC program for a breach of contractual terms or any other disenrollment criteria he was subject to service on enlisted active duty if he was qualified for a period of not more than 4-years if he failed to complete the ROTC program or agreed to reimburse the U. S. Government his advanced educational assistance in lieu of being ordered to active duty. He also understood the Secretary of the Army or designee retains the prerogative to either order him to active duty or order the monetary repayment of his scholarship benefits. If ordered to repay the advanced educational assistance his enlistment in the Armed Service would not relieve him of his repayment obligation.
- d. On 18 July 2016, the Professor of Military Science notified the applicant disenrollment proceedings were initiated based on his withdrawal from the university which constitutes a breach of the terms of his ROTC contract with the U.S. Army. He was notified of his election of rights and that a scholarship cadet he may be called to enlisted active duty or be required to repay any bonus, incentive and/or scholarship

benefits in the amount of \$28,000.00 in lieu of being call to active duty in order to fulfill his contractual obligation.

e. On 3 May 2017, Orders Number 17062-01, issued by the ROTC Santa Clara University, the applicant was discharged from the USAR Control Group (ROTC), effective 27 February 2017.

f. DD Form 785, section I (Identification Information on Student at Time Disenrolled) shows the applicant's information; however, in Section III (Reasons and Circumstances for Disenrollment) shows the name of Cadet C- M- as being disenrolled and discharged from the ROTC based on withdrawal from the Santa Clara University.

g. On 30 October 2019, Orders Number 9308009, issued by the Military Entrance Processing Station, the applicant was ordered to active duty to report to Fort Sill, OK, effective 4 November 2019.

h. On 4 November 2019, the applicant enlisted in the Regular Army in the rank of private first class.

i. On 3 February 2021, Orders Number 034-003, issued by Headquarters, U.S. Army Cyber Center of Excellence, the applicant was awarded military occupational specialty 25S (Satellite Communication Systems Operator-Maintainer), effective 9 December 2020.

5. The applicant provides:

a. On 18 July 2016, the applicant acknowledged his disenrollment from the ROTC program that he understood his rights and the consequences of the proceedings. He admitted he breached the terms of his ROTC contract, and he elected to waive:

- a hearing before a board
- appearance before a board
- response to and deny the allegations of the breach of contract
- dispute the basis for his disenrollment
- dispute the amount and validity of any indebtedness to the U.S. Government
- request forgiveness in whole or part of his indebtedness
- appeal of his disenrollment and indebtedness except to the ABCMR

He requested a delayed call to active duty to take effect 60-days after his projected graduation date or his disenrollment whichever came first. His request for call to active duty was not guaranteed and that being allowed to serve on active duty to fulfill his contractual obligation with the Army is contingent on his continued eligibility for active duty.

- b. DA Form 5689 shows the applicant executed his oath of reenlistment on 26 August 2022.
- c. DFAS advised the applicant he could apply to the ABCMR for a suspension or termination of his indebtedness for individuals who entered active service in any branch with a debt that originated from the Army. In order for DFAS to accurately reflect his current debt status, the applicant must notify them when he submits his application to the ABCMR and provide the docket number. Otherwise, the collection action may continue.
- d. U.S. Department of the Treasury letter dated 15 April 2019, stated the applicant owed the U.S. Government \$37,258.59. He must immediately pay his debt to stop collection action and prevent the addition of more interest, penalties and administrative fees.
- e. Character reference from SPC K- W- stated the author first met the applicant in 2013. The applicant had a lot of leadership potential and combat prowess. When the applicant could not complete training, he was sent home. He was ostracized for failing the course and felt he could no longer continue his schooling and moved away from the university. He enlisted in the Army to proudly serve and to meet his contractual obligation in lieu of repayment of his financial indebtedness.
- f. Screenshot of the applicant's DFAS Out of Service Debt payment confirmation with shows on 5 February 2021, he made a \$500.00 payment toward his indebtedness.

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. Upon review of the applicant's petition, available military records, the Board determined there is sufficient evidence to support relief in support of the applicant's contentions for cancellation or remission of his Reserve Officers' Training Corps (ROTC) scholarship indebtedness due to his service. The Board noted at the time of his disenrollment, the applicant requested a delayed call to active duty to take effect 60-days after his projected graduation date or his disenrollment whichever came first. His request for call to active duty was not guaranteed and that being allowed to serve on active duty to fulfill his contractual obligation with the Army is contingent on his continued eligibility for active duty.

2. The Board recognize on 4 November 2019, the applicant enlisted in the Regular Army in the rank of private first class. Evidence shows the applicant completed 4-years of service which should fulfill the ROTC repayment and he plans to serve for more than 20-years. Based on the preponderance of evidence the Board granted relief for cancellation or remission of his Reserve Officers' Training Corps (ROTC) scholarship indebtedness due to his service.

VOTE:

Mbr 1 Mbr 2 Mbr 3

██████████ 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 notifying DFAS that the applicant's debt in the amount of \$37,258.59 has been relieved that was established due to his military service.

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) 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.
3. AR 145-1 (Senior Reserve Officers' Training Corps Program: Organization, Administration, and Training), prescribes policies and general procedures for administering the Army's Senior Reserve Officers' Training Corps (SROTC) Program.
 - a. Paragraph 3-39 (Termination of scholarship and disenrollment), the Commanding General, ROTC Cadet Command, is the approving authority for termination of scholarship and/or disenrollment. A scholarship will be terminated, and the cadet disenrolled for any of the reasons listed in paragraph 3-43.
 - b. Paragraph 3-43 (Disenrollment), a. A non-scholarship cadet may be disenrolled by the Professor of Military Science. A scholarship cadet may be disenrolled only by the CG, ROTCCC. Disenrollment authority does not include the discharge authority for Simultaneous Membership Program participants.
4. Title 10, USC, section 2005 (Advanced education assistance: active-duty agreement; reimbursement requirements), provides that the Secretary concerned may require, as a condition to the Secretary providing advanced education assistance to any person, that such person enter into a written agreement with the Secretary concerned under the terms of which such person shall agree:
 - a. That if such person does not complete the period of active duty specified in the agreement, or does not fulfill any term or condition prescribed, such person shall be subject to the repayment provisions of Title 37, USC, section 303a(e); and
 - b. To such other terms and conditions as the Secretary concerned may prescribe to protect the interest of the United States.

//NOTHING FOLLOWS//