

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 February 2025

DOCKET NUMBER: AR20240006104

APPLICANT REQUESTS:

- to receive the unpaid portion of his 2012 Reenlistment/Extension Bonus (REB)
- change reason for separation

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

- DD Form 149 (Application for Correction of Military Record)
- National Guard Bureau (NGB) Form 600-7-3-R-E (Annex R to DD Form 4 or DA Form 4836 Reenlistment/Extension Bonus Addendum Army National Guard (ARNG) of the U.S.), 29 April 2012
- Department of Veterans Affairs (DVA) information

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 in pertinent part that he was discharged from the Army prior to completing his contractual obligation due to a failed Army Physical Fitness Test (APFT). He notes that during this period, he consistently struggled with his breathing. Following his discharge, he sought medical care and was advised that he had an obstructed airway which caused difficulty breathing. He contests that the ARNG was negligent in their care as he has recently been awarded disability compensation by the DVA for this condition.

3. A review of the applicant's available service records reflects the following:

a. On 29 September 2004, the applicant enlisted in the ARNG for 8 years with duty as a 15P (Aviation Operations Specialist) and entitlement to the Montgomery G.I. Bill.

b. On 5 April 2005, Headquarters, U.S. Army Aviation Center and Fort Rucker issued Orders Number 095-147 announcing the applicant's award of the 15P military occupational specialty, effective 11 May 2005.

c. On 27 September 2010, the applicant elected to extend his enlistment in the ARNG by 6 months.

d. On 12 December 2010, the applicant elected to extend his enlistment in the ARNG by 1 year and 7 months.

e. On 29 April 2012, the applicant elected to extend his enlistment in the ARNG by 6 years with entitlement to a \$7,500.00 REB to be paid in 3 installments: 50 percent after current expiration term service, 25 percent on the 3rd anniversary and 25 percent on the 5th anniversary. NGB Form 600-7-3-R-E, Section V (Termination) provides that termination with recoupment of the REB may occur if the applicant has two consecutive record APFT failures within the contracted term. Termination will be effective on the date of the 2nd APFT failure. Termination without recoupment may occur if the applicant is discharged due to injury or illness that occurred or was detected while assigned in a traditional drilling status that was not the result his own misconduct. The incentive will be terminated effective the discharge order date upon confirmation with the State Surgeon of reason for medical discharge.

f. On 24 October 2015, the applicant failed a record APFT.

g. On 3 April 2016, the applicant failed a second record APFT.

h. On 13 June 2016, the applicant was notified by his battalion commander of his intent to reduce the applicant in rank from sergeant (SGT)/E-5 to specialist (SPC)/E-4 due to his failure to meet APFT requirements. The applicant elected to waive his rights to obtain legal advice and a requested a reduction board.

i. On 12 January 2017, the applicant requested to be transferred into the Individual Ready Reserve (IRR) for the remainder of his contractual obligation due to his inability to maintain a civilian and work-life balance.

j. On 2 February 2017, the applicant's battalion commander elected to reduce the applicant from SGT to SPC due to his failure to meet the APFT requirements.

k. On 8 August 2017, the UTARNG issued Orders Number 220-024 honorably discharging the applicant from the ARNG and transferring him into the U.S. Army Reserve (USAR) Control Group (IRR), effective 18 May 2017 due to an incompatible occupation. These orders further provide termination of his Selected Reserve Incentive Program (SRIP) incentive without recoupment effective 18 May 2017.

I. NGB Form 22 (Report of Separation and Record of Service) shows on 18 May 2017 the applicant was transferred to the USAR Control Group (IRR). Item 23 (Authority and Reason) reflects "National Guard Regulation (NGR) 600-200 (Enlisted Personnel Management), paragraph 6-36F - Individual Request of the Soldier not Discharged from the Reserve of the Army Status in Order to Become a Member of the Army Reserve, IRR"; item 26 (Reenlistment Eligibility) reflects "RE-3."

4. The applicant provides DVA information reflective of his disability compensation rating of 80 percent of which 50 percent was awarded for obstructed sleep apnea with shortness of breath on exertion.

5. On 16 January 2025, the Chief, Special Actions Branch, NGB, provided an advisory opinion recommending disapproval of the applicant's request noting that he failed two consecutive APFTs and his REB was terminated effective 5 November 2016, the date of his second failure. Official APFT and height and weight records yield no reference to the applicant's claims of a medical limitation. The applicant received notification of incentive termination via certified mail on 23 February 2024 and did not supply a response. His REB was established in the Guard Incentive Management System, and he received the first payment of \$3,750.00 on 8 March 2013 and the second payment of \$1,875.00 on 29 October 2015. The REB was terminated effective 5 November 2016 after his second failed APFT and \$625.00 was recouped. Further, the applicant was not medically discharged as he claimed in his application. He initiated separation on a DA Form 4187 (Personnel Action) requesting early separation due to financial reasons. He voluntarily separated which is also criteria for bonus termination on 18 May 2017, prior to the final payment eligibility date.

6. On 16 January 2025, the applicant was provided with a copy of the advisory opinion and afforded 14 days to provide comments. As of 1 February 2025, the applicant has not responded.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief was not warranted.
2. The Board carefully considered the applicant's contentions, his military record, the terms and conditions of his incentive bonus, his request for early separation and the reason for his discharge. The Board considered the review and conclusions of the National Guard advising official, the statement regarding failure of consecutive APFTs and the absence of in-service documentation showing medical limiting conditions and the applicant's DVA information regarding his service-connected disability. Based on a preponderance of evidence, the Board determined that the termination of the applicant's bonus with recoupment was not in error or unjust and that there was insufficient evidence to support a change to the narrative reason for his separation.

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.

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, 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. NGR 600-7 (Selected Reserve Incentive Program) provides Army National Guard policies, procedures, and implementation of Selected Reserve Incentive Programs. This regulation sets responsibilities, lists benefits, describes eligibility criteria and entitlement, sets suspension, termination, and recoupment requirements, and prescribes processing and payment procedures. Paragraph 1-20 (Termination) provides that a Soldiers incentive eligibility and entitlement stop when they fail 2 consecutive APFT. Once a Soldier has been terminated, reinstatement of eligibility is not authorized.
3. NGR 600-200 (Enlisted Personnel Management) establishes standards, policies, and procedures for the management of the ARNG and the Army National Guard of the United States (ARNGUS) enlisted Soldiers in the functional areas of enlisted separations. Paragraph 6-36 (State ARNG Separations) lists reasons for separation from the State ARNG not listed in paragraph 6-35. All Soldiers being involuntarily separated will be afforded a reasonable opportunity to provide a written response for consideration by the separation authority. Characterization of service will be per applicable State codes. Individual request of the Soldier not to be discharged from the Reserve of the Army status in order to become a member of the Army Reserve, Individual Ready Reserve: RE 1 or RE 3, as applicable.

//NOTHING FOLLOWS//