

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 March 2025

DOCKET NUMBER: AR20240006646

APPLICANT REQUESTS: remission or cancellation of indebtedness owed to the Government.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:  
DD Form 149 (Application for Correction of Military Record).

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 the Defense Finance and Accounting Service (DFAS) informed him the debt was for the overpayment of pay and allowances while he was in the Army. Upon contacting DFAS, he requested a review of his account; however, DFAS advised the debt was valid. If he did not agree with the debt, he would have to contact his last supporting finance office. Any monies he may have been overpaid was recouped before he was discharged from the Army.
3. A review of the applicant's service record shows:
  - a. On 12 May 2005, the applicant enlisted in the Regular Army for 5-years.
  - b. Enlisted Record Brief shows the applicant served in:
    - Iraq during the period of 31 October 2006 through 16 January 2008
    - Iraq during the period of 5 February 2009 through 5 February 2010
    - Iraq during the period of 12 July through 31 December 2011
    - Kuwait during the period of 1 January through 16 June 2012
  - c. On 6 July 2007, the applicant reenlisted for 6-years while he was serving in Iraq.
  - d. On 21 October 2011, the applicant reenlisted for 6-years while he was in Iraq.

e. On 2 May 2013, the applicant's commander reported him absent without leave (AWOL) on 26 April 2013.

f. On 25 May 2013, property/evidence was taken into custody by the Fort Wainwright Police Department from the garage located at 1827 Parham McCormick Road, North Pole, AK. See DA Form 4137 (Evidence/Property Custody Document) for the complete list of secured property, 36 items were listed on the document.

g. On 19 June 2013, the applicant's commander reported him present for duty on 28 May 2013.

h. On 19 June 2013, the applicant's commander reported him dropped from the rolls on 12 June 2013.

i. On 25 June 2013, the applicant's commander reported him AWOL on 26 April 2013.

j. On 25 June 2013, the applicant's commander reported him dropped from the rolls on 26 May 2013.

k. On 22 July 2013, the applicant was charged with one specification of AWOL on 12 June 2013 until 22 July 2013.

l. On 8 October 2013, the applicant was charged with:

- two specifications of AWOL
- 16 specifications of theft of government property
- One specification of sexual intercourse with a woman not his wife
- Three specifications of exporting government property into Canada without a license

m. On 15 November 2013, Orders Number 319-300, issued by the Military Personnel Division, Fort Wainwright, AK, the applicant was returned to military control, effective 28 September 2013.

n. On 3 December 2013, the applicant's commander initiated separation proceedings against him for AWOL which resulted in his confinement at the Fairbanks Correctional Center. The applicant acknowledged notification on 18 December 2013.

o. On 17 December 2013, the applicant requested discharge in lieu of court-martial which was approved by the separation authority with an under other than honorable conditions discharge and was barred from all U. S. Army installations in AK.

p. On 18 December 2013, a mental health evaluation was completed, and the applicant was found negative for post-traumatic stress disorder, met retention standards, and was cleared for administrative separation.

q. On 19 December 2013, the applicant was discharged from active duty in lieu of court-martial. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed 8-years, 1-month, and 25-days of active service. It also shows he:

- Served in Iraq during the period of 31 October 2006 through 16 January 2008
- Served in Iraq during the period of 5 February 2009 through 5 February 2010
- Served in Iraq during the period of 12 July 2011 through 16 June 2012
- Was paid a reenlistment bonus in the amount of \$35,400.00
- Had lost time during the periods of 26 April through 27 May 2013, 12 June through 23 September 2013 and 21 November through 19 December 2013

4. On 24 February 2015, in the processing of this case, DFAS provided information regarding the applicant's indebtedness. The DFAS official stated the applicant had an original debt in the amount of \$27,575.40 with \$6,852.21 in interest, fines and penalties. The applicant made a payment in the amount of \$1,420.74 for a balance of \$33,006.49. His debts were for loss of Government property in the amount of \$10,116.26 and recoupment of unearned portion of his reenlistment bonus in the amount of \$17,458.76. The entire packet provided by DFAS is available in the supporting documents for the Board's review.

#### BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation and the information obtained from DFAS, the Board determined the portion of the debt related to the overpayment of \$17,458.76 in pay and allowances was appropriate and should be recouped. However, since the property was recovered from the applicant's garage by the police department, the portion the debt related to a loss of government property in the amount of \$10,116.26 should be cancelled.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:XXX	:XXX	:XXX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected by cancelling a portion of the applicant's DFAS debt in the amount of \$10,116.26, all other portions of the debt will be reimbursed by the applicant.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to more relief than that reflected above.

//SIGNED//

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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) 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.
3. 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 on the basis of this regulation in cases arising from debts incurred while serving on active duty or in an active status as a Soldier.

//NOTHING FOLLOWS//