

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 March 2025

DOCKET NUMBER: AR20240006881

APPLICANT REQUESTS: remission of Reserve Officers' Training Corps (ROTC) debt in the amount of \$39,521.00.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 6 September 2023 – reflective of active-duty service from 10 October 2012 – 6 September 2023
- Soldier Talent Profile – reflective of pertinent personnel information to include assignment, military and civilian education history
- Orders Number 183-001, 2 July 2012 – reflective of the applicant being discharged from the U.S. Army Reserve (USAR) Control Group on 30 May 2012
- DA Form 71 (Oath of Office Military Personnel) – reflective of the applicant being appointed as a Warrant Officer on 7 September 2023

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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 enlisted in the Regular Army in 2012 in lieu of the requirement to repay previously received ROTC scholarship benefits
- He was disenrolled from ROTC in January 2012; homeless from January – August 2012
- He was advised by his recruiter that his scholarship debt would be annotated on his enlistment documents and the debt would be removed
- His active-duty pay was garnished due to previously received scholarship benefits

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

- On 27 October 2010 – he enlisted in the USAR for 8 years as an ROTC cadet with entitlement to a 4 years scholarship; DA Form 597-3 (Army Senior ROTC Scholarship Cadet Contract):
  - Section 5 (Terms of Disenrollment) provides understanding by the applicant that should he become disenrolled from the ROTC program for breach of contractual terms – required to reimburse the government all advanced educational assistance in lieu of being ordered to active duty as an enlisted Soldier
- On 15 December 2011 – dismissed from the University due to failing to meet the semester grade point average requirements; placed on a leave of absence
- On 23 January 2012 – initiation of disenrollment from the ROTC program due to academic reasons
- On 20 February 2020 – the applicant waived his rights to a hearing and elected expeditious call to active duty within 30 days
- On 29 February 2012 – the Commander, Headquarters Second Brigade, U.S. Army Cadet Command recommended that the applicant be immediately disenrolled from the ROTC program and required to repay \$39,521.00 in scholarship benefits
- On 2 July 2012 (Orders Number 183-001) – discharged the applicant from the USAR, effective 30 May 2012, in accordance with Army Regulation (AR) 135-178 (Enlisted Administrative Separations)
- On 10 October 2012 – the applicant enlisted in the Regular Army with entitlement to the Montgomery GI Bill
- 6 September 2023 – the applicant was released from active duty in order to accept appointment as a Warrant Officer
- 7 September 2023 – the applicant was appointed as a Warrant Officer

4. The applicant was a scholarship cadet which requires dismissal by the Commanding General U.S. Army Cadet Command (USACC). The USACC point of contact was unable to locate the Commanding General dismissal letter.

BOARD DISCUSSION:

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 review based on law, policy, and regulation. The Board concluded the applicant's 10 plus years of completed active-duty service and continued service exceeded the service obligation required to satisfy his ROTC scholarship debt. Therefore, the Board granted relief.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

|     |     |     |                      |
|-----|-----|-----|----------------------|
| 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 to show his active duty service has satisfied his ROTC scholarship debt.

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. AR 145-1 (Senior ROTC Program, Organization, Administration and Training) provides that a scholarship cadet may be disenrolled only by the Commanding General, ROTC Cadet Command. The Commanding General, ROTC Cadet Command, is the only authority for discharge of scholarship cadets. ROTC cadets normally will be honorably discharged on the date of disenrollment from the ROTC program, except those ordered to active duty under the terms of their ROTC contract. If not academically enrolled, the cadet will be ordered to active duty 60 days from date of notification of active duty.

a. Cadets assigned to USAR Control Group (ROTC) may be discharged or separated for the convenience of the Government for termination of a scholarship.

b. Cadets assigned to USAR Control Group (ROTC), who are not ordered to active duty or pending such an order and has no previous military service, or who has not completed a basic training course, will be discharged. The effective date of discharge or transfer will be the date of disenrollment from the ROTC.

c. Scholarship students may be required to repay all or part of their scholarship financial assistance.

d. Paragraph 10-2 (Disenrollment Criteria) subparagraph (b.) provides that scholarship and non-scholarship Cadets may be disenrolled for withdrawal, dismissal or suspension from the educational institution or failure to maintain a minimum cumulative grade point average of 2.0 on a 4.0 or equivalent scale. When cadets are found to be in breach of their service agreements, under the terms of such contracts their obligation to the Army may be satisfied through enlisted active-duty service or through recoupment of the cost of advanced educational assistance provided by the Army.

3. 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. To complete the educational requirements specified in the agreement and to serve on active duty for a period specified in the agreement.
- b. That if such person failed to complete the education requirements specified in the agreement, such person would serve on active duty for a period specified in the agreement (usually a four-year enlistment at the grade of E-1, in a MOS at the needs of the Army)
- c. 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
- d. To such other terms and conditions as the Secretary concerned may prescribe to protect the interest of the United States.

4. AR 600-4 (Remission or Cancellation of Indebtedness) states:

- a. A Soldier's debts to the United States Army may be remitted or canceled on the basis of this regulation in cases arising from—
  - Payments made in error to a Soldier
  - Payments made in excess of an allowance on behalf of a Soldier
  - Debts incurred while serving on active duty as a Soldier
  - Debts acknowledged as valid
- b. Indebtedness to the U.S. Army will not be remitted or canceled when debt is incurred while not in an active-duty status.
- c. A Soldier indebted to the U.S. Government may request that the debt be remitted or canceled on the basis of hardship, injustice, or both. Additional factors for consideration in determining justice:
  - The applicant did not know, and could not have known, of the error
  - The applicant inquired of a proper authority and was told that the payment was correct

//NOTHING FOLLOWS//