

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 April 2025

DOCKET NUMBER: AR20240006953

APPLICANT REQUESTS: remission/cancelation of indebtedness for disenrollment from the Reserve Officers' Training Corps (ROTC).

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 4856 (Developmental Counseling Form) which informed the applicant of his positive urinalysis result for marijuana
- Memorandum for Disenrollment from the U.S. Army ROTC Program excerpt, 18 March 2019, which shows he had a debt in the amount of \$20,910.00 related to his disenrollment from ROTC
- Training Education and Qualification History which shows his U.S. Navy training
- U.S. Navy records
- Leave and Earnings Statement

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:

- he has been paying on debt from his disenrollment from the Army ROTC program for the last 6 years and currently still owes \$14,043.00
- he completed his degree and then enlisted in the U.S. Navy
- he has been actively serving for the last 2 years, provided documents showing his service, and would like his debt cancelled or remitted in exchange for his current active service

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

- He enlisted as a Cadet in the ROTC program on 2 March 2018. In conjunction he signed DA Form 597-3 (Army Senior ROTC Scholarship Cadet Contract) to attend the ROTC scholarship program with St. Johns University, at full tuition, for a period of 2.5 years.
- On 1 May 2018, he tested positive on a urinalysis for wrongful use of a controlled substance
- On 27 September 2018, he was recommended for disenrollment from ROTC
- Consistent with the chain of command recommendations, on 18 March 2019, the commanding general of the U.S. Army Cadet Command approved his disenrollment from the ROTC program for testing positive for Tetrahydrocannabinol (THC) and monies owed for education reimbursement in the amount of \$20,910.00

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief 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. One potential outcome was to grant relief based on the applicant enlisted in USN and satisfied legal requirement, despite ROTC opinion he should not be allowed to enlist for remission of debt. The Board member also noted, the Navy waived his disenrollment and he enlisted in the Navy and still serving for the past two years. However, upon further review of the applicant's petition and available military records, the Board determined the applicant was released from the ROTC program for testing positive during a urinalysis for a controlled substance, and while going through the ROTC administrative separation proceedings declined an expeditious call or entry into active duty.

2. The Board acknowledged the applicant's U.S. Navy service; however, the Board also noted the PMS did not recommend he be placed on active duty. The Board did not find an error or injustice with his ROTC separation proceedings and subsequent assignment of ROTC debt. Therefore, the Board denied relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	XXX	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	:	XXX	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, 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 (AR) 145-1 (Senior Reserve Officers' Training Corps Program: Organization, Administration, and Training) prescribes policies and general procedures for administering the Army's Senior ROTC Program.

a. Paragraph 3-31 (Introduction) states the Army ROTC Scholarship Program provides financial assistance to those students who have demonstrated academic excellence and leadership potential. The U.S. Army Scholarship Program's purpose is to provide for the education and training of highly qualified and motivated young men and women who have a strong commitment to military service as commissioned officers.

b. Paragraph 3-43 (Disenrollment) (a)(16) states a scholarship cadet may be disenrolled only by the Commanding General, ROTC Cadet Command. A cadet may be disenrolled for breach of contract (including formerly used term willful evasion). (Note: Breach is defined as any act, performance or nonperformance on the part of a student that breaches the terms of the contract regardless of whether the act, performance or nonperformance was done with specific intent to breach the contract or whether the student knew that the act, performance or nonperformance breaches the contract).

3. AR 37-104-4 (Military Pay and Allowances Policy), provides the policies and provisions for entitlements and collections of pay and allowances of military personnel. Paragraph 31-2 (Recoupment) states recoupment applies to those individuals who have signed an agreement that contains recoupment provisions. Recoupment action will be taken at transition when the personnel and finance communities identify a Soldier or cadet as being eligible for recoupment action.

4. Title 10, USC, section 2005(a), states

a. 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 under the terms of which such person shall agree: (1) to complete the educational requirements specified in the agreement and to serve on active duty for a period specified in the agreement and (2) that if such person fails to complete the education requirements specified in the agreement, such person will serve on active duty for a period specified in the agreement.

b. States the Secretary concerned shall require that the person enter into the agreement described in subsection (a). In addition to the requirements of paragraph (1) through(4) of such subsection, the agreement shall specify that, if the person does not complete the education requirements specified in the agreement or does not fulfill any term or condition prescribed pursuant to paragraph (4) of such subsection, the person shall be subject to the repayment provisions of section 303a(e) (Repayment of Unearned Portion of Bonuses and Other Benefits When Conditions of Payment Not Met; Termination of Entitlement to Unpaid Amounts) or 373 (Repayment of unearned portion of bonus, incentive pay, or similar benefit, and termination of remaining payments, when conditions of payment not met) of title 37 without the Secretary first ordering such person to active duty as provided for under subsection (a)(2) and sections 2107 (Financial assistance program for specially selected members)(f) and 2107a(f).

5. 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//