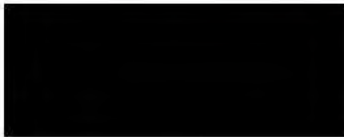


**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2014-221



FINAL DECISION

This proceeding was conducted according to the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the application upon receipt of the applicant's completed application on September 8, 2014, and assigned it to [REDACTED] to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated May 22, 2015, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

The applicant asked the Board to change his home of record¹ (HOR) from [REDACTED],² to [REDACTED]. He indicated the alleged error or injustice in his record occurred on May 17, 2007, but he did not discover the error until July 2, 2014.

SUMMARY OF THE RECORD

When the applicant originally enlisted in the Coast Guard on September 28, 1992, at a recruiting office in [REDACTED] [REDACTED] he listed his current address and HOR as [REDACTED]. He served on active duty for 13 years and was honorably discharged on October 4, 2005. His DD 214 shows that his HOR was [REDACTED].

On May 16, 2007, the applicant was issued a driver's license from the [REDACTED] Department of Public Safety. On May 17, 2007, he reenlisted in the Coast Guard at a recruiting office in [REDACTED]. His reenlistment contract states that his HOR is [REDACTED] but that his place

¹ Home of Record is the city, state, or complete address where the member originally entered active duty without a break in service. COMDTINST M1900.4D, Appendix A, Part 1 of the Joint Federal Travel Regulations (JFTR) states that a member's HOR is the place recorded as the home of the individual when commissioned, appointed, enlisted, inducted, or ordered into a tour of active duty.

² The applicant's Enlistment/Reenlistment Contract indicates that his HOR is [REDACTED].

of reenlistment is [REDACTED] [REDACTED]. The applicant also submitted a print-out of his voter registration, which shows that he registered to vote in [REDACTED] with a [REDACTED] home address on June 17, 2007.

VIEWS OF THE COAST GUARD

On March 27, 2015, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board grant relief in accordance with a memorandum submitted by the Commander, Personnel Service Center (PSC).

PSC argued that the HOR shown on the applicant's 2007 reenlistment contract and throughout his record is incorrect. PSC stated that the home of record is the place the individual records as home when commissioned, appointed, enlisted or ordered into a tour of active duty, and the only opportunity a member has to change his home of record is if there is a break in active duty that exceeds one full day. Coast Guard policy allows the Service to change a member's home of record only if a bona fide error occurred, and "any such correction must be fully justified and the home, as corrected, must be the member's actual home upon entering the Service, and not a different place selected for the member's convenience." PSC affirmed that since there was more than a 24-hour break in service between the applicant's discharge from the Coast Guard in 2005 and his reenlistment in 2007, the applicant's home of record should be corrected to show the correct home of record at the time of the applicant's reenlistment.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On March 27, 2015, the Chair the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. The BCMR did not receive a response.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submission and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. Although the applicant presumably knew of the alleged error upon signing his enlistment contract on May 17, 2007, and did not submit his application until 2014, his application is considered timely because he has continued to serve on active duty in the interim.³

2. The applicant asked the Board to correct his record to show that his HOR is [REDACTED]. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.⁴ Absent evidence to the

³ *Detweiler v. Pena*, 38 F.3d 591, 598 (D.C. Cir. 1994) (holding that, under § 205 of the Soldiers' and Sailors' Civil Relief Act of 1940, the BCMR's three-year limitations period under 10 U.S.C. § 1552(b) is tolled during a member's active duty service).

⁴ 33 C.F.R. § 52.24(b).

contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties “correctly, lawfully, and in good faith.”⁵

3. The Board finds that the applicant has proven by a preponderance of the evidence that the HOR listed in his record is incorrect and should therefore be changed. Pursuant to Coast Guard policy, a member’s HOR is the city, state, or complete address of the member’s residence when the member originally entered active duty without a break in service. Additionally, the JFTR states that a member’s HOR is the place recorded as the home of the individual when commissioned, appointed, enlisted, inducted, or ordered into a tour of active duty. The applicant was issued a driver’s license from the [REDACTED] Department of Public Safety on May 16, 2007, one day before he reenlisted in the Coast Guard. The applicant also provided a copy of his voter registration showing that he registered to vote in the state of [REDACTED] in June 2007. The preponderance of the evidence shows that the applicant was living [REDACTED] when he reenlisted at the recruiting station there on May 17, 2007. Therefore, the records showing that his HOR is still [REDACTED] [REDACTED] are erroneous and should be corrected.

4. Accordingly, the applicant’s request should be granted by updating his Home of Record to [REDACTED]

(ORDER AND SIGNATURES ON NEXT PAGE)

⁵ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

ORDER

The application of [REDACTED] [REDACTED] USCG, for correction of his military record is granted. The Coast Guard shall correct his record to show that his home of record upon his reenlistment on active duty on May 17, 2007, following a break in service, was [REDACTED]
[REDACTED]

May 22, 2015

