

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

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Application for Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2016-067**



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**FINAL DECISION**

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the case upon receipt of the applicant's completed application on February 9, 2016, and prepared the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated January 27, 2017, 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 record (HOR)<sup>1</sup> from [REDACTED] to [REDACTED]. The applicant stated that he lived in [REDACTED] from 1980 until he entered the Coast Guard Academy in [REDACTED]. He noted that he visited [REDACTED] just before he started recruit training, but he was a resident of [REDACTED] was registered to vote in [REDACTED] and had a [REDACTED] driver's license at the time. The applicant stated that his "next of kin address was mistakenly used as [his] home of record ... during [his] in-processing. With the exception of January 2000 to August 2004, [he has] been a [REDACTED] resident from 1980 to present." In support of his allegation, the applicant submitted a print-out from the Driver License Unit of the [REDACTED] Law Enforcement Agency, which shows that the applicant was issued an [REDACTED]

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<sup>1</sup> Appendix A of the Joint Travel Regulations defines "Home of Record" as follows in pertinent part:

- A. General. The place recorded as the individual's home when commissioned, appointed, enlisted, inducted, or ordered into a tour of active duty.
- B. Break in Service. The place recorded as the individual's home when reinstated, reappointed, or reenlisted remains the same as that recorded when commissioned, appointed, enlisted or inducted or ordered into the tour of active duty unless there is a break in service of more than one full day. Only if a break in service exceeds one full day may the member change the HOR.
- C. Bona Fide Error. Travel and transportation allowances are based on the officially corrected recording in those instances when, through a bona fide error, the place originally named at time of current entry into the Service was not in fact the actual home. 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.

driver's license from January 4, 2000, to January 4, 2004, and that the "Earliest Issue Date on File" is January 4, 2000.

### SUMMARY OF THE RECORD

The applicant was born in [REDACTED]. On [REDACTED] he was appointed a cadet of the U.S. Coast Guard Academy. His application to the Academy and other documentation of his entry are not in his personnel data record (PDR) as received from the Coast Guard.

On [REDACTED] the applicant signed an Acceptance and Oath of Office to accept a commission as an ensign as of [REDACTED] when he would graduate from the Academy. The "Legal Residence" shown on this document is [REDACTED]. Insurance forms in the applicant's PDR show that his mother continued to live in [REDACTED].

### VIEWS OF THE COAST GUARD

On July 20, 2016, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion in which he recommended that the Board deny the applicant's request.

The JAG adopted the findings and analysis in a memorandum prepared by the Personnel Service Center (PSC). PSC stated that an HOR is an individual's home of record when first appointed, enlisted, inducted, or ordered to active duty and does not change when the member changes status by, for example, accepting a commission, unless there is a break in military service. PSC stated that the applicant's legal residence upon accepting his commission in [REDACTED] was [REDACTED] and Coast Guard's database shows that his HOR was entered as [REDACTED] on February 27, 2002. PSC stated that the applicant has not provided sufficient evidence to show that he was residing in [REDACTED] when he accepted his commission, and he certified his legal residence at the time as [REDACTED]. Therefore, PSC recommended that the Board deny relief.

PSC submitted a print-out of "member information" from its database showing that the applicant's HOR is [REDACTED] effective as of February 27, 2002, but also that his DIEMS (Date of Initial Entry into Military Service) is July 7, 1997.

The JAG added a note stating that the applicant bears the burden of proof and has not submitted any evidence to show that he ever lived in [REDACTED].

### APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

In response to the Coast Guard's advisory opinion, the applicant submitted the following documents to show that he was living in [REDACTED] just before he entered the Coast Guard Academy in [REDACTED].

- A high school transcript and diploma show that the applicant attended high school in [REDACTED] for four years and graduated on [REDACTED].

- A photocopy of an envelope shows that it was mailed by the Coast Guard Academy to the applicant in [REDACTED] on [REDACTED]
- A letter from the Medical Examination Review Board, dated [REDACTED] which is addressed to the applicant at an address in [REDACTED] [REDACTED] directs him to report for a physical examination at [REDACTED] on [REDACTED]

The applicant stated that his HOR should have been established in [REDACTED]—not February 2002—because that was when he entered military service, as shown by his [REDACTED] [REDACTED] DIEMS. The applicant stated that he lived in [REDACTED] [REDACTED] until he entered the Coast Guard Academy in July 1997. He noted that he has had no break in military service since he entered the Academy.

The applicant explained that having an accurate HOR is important to him because the State of [REDACTED] has established certain veterans' benefits that are only available to veterans who were living in [REDACTED] when they joined the military and so have an HOR in [REDACTED]

### FURTHER PROCEEDINGS

Upon reviewing the case file, the Chair asked the Coast Guard for any official records documenting the applicant's home address upon his appointment as a cadet in [REDACTED] and was informed that none are available. The Coast Guard also admitted that the applicant's "HOR would be established upon entering the USCGA [U.S. Coast Guard Academy] and there would be no break in service at commissioning."

### 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. The application was timely filed.<sup>2</sup>

2. The applicant asked the Board to correct his HOR from [REDACTED] [REDACTED] to [REDACTED] [REDACTED]. The Board begins its analysis in every case 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.<sup>3</sup> Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties "correctly, lawfully, and in good faith."<sup>4</sup>

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<sup>2</sup> *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).

<sup>3</sup> 33 C.F.R. § 52.24(b).

<sup>4</sup> *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

3. The Board agrees with the applicant and the Coast Guard that under the definition of “home of record” in Appendix A of the JTR, the applicant’s HOR should be his home at the time of his matriculation into the Academy on [REDACTED]. In this regard, the Board notes that Coast Guard cadets are appointed into military service, are considered to be serving on active duty, and are subject to the Uniform Code of Military Justice,<sup>5</sup> and so the applicant has had no break in military service since [REDACTED].

4. The applicant has proven by a preponderance of the evidence that his HOR should be [REDACTED], rather than [REDACTED]. As the Coast Guard noted, by the time he graduated from the Academy in [REDACTED] the applicant’s parents had moved to [REDACTED] and he signed his Acceptance and Oath of Office in [REDACTED] with [REDACTED] listed as his “legal residence.” However, the applicant has submitted a high school transcript and diploma showing that he attended high school in [REDACTED] for four years and graduated on [REDACTED]. In addition, he submitted evidence showing that the Coast Guard was using his address in [REDACTED] to mail documents to him pertaining to his admission to the Academy and a pre-appointment medical examination on [REDACTED]. Therefore, the preponderance of the evidence in the record shows that the applicant’s home at the time of his entry into military service was [REDACTED].

5. Accordingly, the applicant’s request should be granted by correcting his HOR to [REDACTED].

**(ORDER AND SIGNATURES ON NEXT PAGE)**

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<sup>5</sup> 14 U.S.C. §§ 41, 182; 10 U.S.C. §§ 802; 38 U.S.C. § 1965. *But see* 10 U.S.C. §§ 533, 971 (noting that once a cadet has been commissioned as an officer, his or her time at the Academy may not be counted when computing time in service for purposes of longevity, pay, or retirement).

**ORDER**

The application of [REDACTED] USCG, for correction of his military record is granted. The Coast Guard shall correct his official home of record to [REDACTED]

January 27, 2017

