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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2022-00828

XXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** NO

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**APPLICANT'S REQUEST**

His DD Form 214, *Certificate of Release or Discharge from Active Duty*, dated 1 Apr 15, be amended to correct item 7a (Place of Entry) into Active Duty and item 7b (Home of Record) at Time of Entry.

**APPLICANT'S CONTENTIONS**

He was transitioning from enlisted status to a commissioned officer. However, he was a Texas resident when he entered extended active duty. Corrected records will allow him to qualify for Veterans programs in Texas.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a retired Air Force Reserve major (O-4).

On 29 Oct 91, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant enlisted in the Regular Air Force. Item 3, Home of Record, indicates "[City] OH" and item 4, Place of Enlistment/Reenlistment, reflects "[City] OH."

On 15 Aug 02, according to DD Form 214, the applicant was discharged from the Regular Air Force in the grade of staff sergeant (E-5). His narrative reason for separation is Commissioned or Warrant in the Same Branch of Service. Item 7a reflects "[City] OH" and item 7b reflects "[City] OH."

On 16 Aug 02, according to Special Order Work-Product, dated 12 Aug 02, the applicant, an Officer Training School (OTS) trainee, was appointed as a Reserve officer of the Air Force and was ordered to Extended Active Duty from OTS in "AL" in the grade of second lieutenant (O-1).

On 31 Mar 15, according to DD Form 214, the applicant was released from active duty for the purpose of retirement. Item 7a reflects "[City] AL" and item 7b reflects "[City] OH."

On 1 Apr 15, according to Special Orders No. Work-Product, dated 5 Sep 14, the applicant was retired in the grade of O-4. He was credited with 23 years, 5 months, and 2 days of active service for retirement.

For more information, see the excerpt of the applicant's record at Exhibit B.

**APPLICABLE AUTHORITY**

The Joint Travel Regulations (JTR), Appendix A, defines the HOR as the place recorded as the individual's home when appointed, commissioned, enlisted, inducted, or ordered into a tour of

active duty. The JTR further states that a member may only change the HOR if a break in service exceeds one full day. Additionally, in instances of a bona fide error where the place originally named at the time of current entry into the service was not in fact the actual home, the 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.

The JTR defines The Place of Entry onto Active Duty as the place of acceptance in current enlistment, commission, or appointment of an active Service member, or for a Reserve Component member, when enlisted, commissioned, or appointed for immediate active duty (address on their initial active duty order for this period of time). The POE changes only if there is a break in service exceeding one full day, in which case it is the place of entry into the new period of service

According to the DD Form 214 Personnel Services Delivery Guide, the HOR shown on the initial DD Form 4-1 is used as the HOR on the DD Form 214, *Certificate of Release or Discharge from Active Duty*.

### **State Residency:**

According to the Air Force Personnel Center myPers website, state residency is the home for the purposes of taxes as a member moves throughout their military career. While the state residence may be updated at any time by completing a DD Form 2058, *State of Legal Residence Certificate*, at the Military Personnel Flight (MPF), the HOR remains unchanged unless there is a break in service of at least one day.

### **AIR FORCE EVALUATION**

AFPC/DP2LT recommends denying the application. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice for the applicant's HOR or POE. The applicant provided no proof of residency in Texas prior to his enlistment on 29 Oct 91. Additionally, his DD Forms 214 confirm he separated as an enlisted member on 15 Aug 02 and commissioned the following day on 16 Aug 02. Therefore, there was no break in service. To grant relief would be contrary to the criteria established by the JTR, Appendix A.

The complete advisory opinion is at Exhibit C.

### **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 13 Apr 22 for comment (Exhibit D), and the applicant replied on 30 Apr 22 via email. In his response, the applicant contended he feels the process is unfair. When he entered OTS in Alabama, his Home of Record was in Texas. He has been a Texas resident since 1996 and has served the majority of his active duty time in Texas. Not changing his Home of Record eliminates him and his family from receiving several State Veterans programs and benefits.

The applicant's complete response is at Exhibit E.

### **FINDINGS AND CONCLUSION**

1. The application was not timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After a careful review of the applicant's contentions and the available evidence of record, the Board is not convinced the applicant has provided sufficient evidence to conclude that he is the victim of an error or injustice. The applicant's HOR and POE when he enlisted in the Regular Air

Force is listed as Ohio, and he did not provide proof that his HOR was recorded in error. The applicant claims he has been a Texas resident since 1996 and has served the majority of his active duty time in Texas. However, as noted above state residency is the home for the purposes of taxes as a member moves throughout their military career. While the state residence may be updated at any time, the HOR remains unchanged unless there is a break in service of at least one day. The applicant did not have a break in service of more than one full day; therefore, a change to his HOR or POE is not authorized. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence. The Board does not find it in the interest of justice to waive the three-year filing requirement. Therefore, the Board finds the application untimely and recommends against correcting the applicant's records.

### **RECOMMENDATION**

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

### **CERTIFICATION**

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2022-00828 in Executive Session on 21 Jul 22:

, Panel Chair  
, Panel Member  
, Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, dated 18 Mar 22.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory, AFPC/DP2LT, w/atchs, dated 13 Apr 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 13 Apr 22.
- Exhibit E: Applicant's Response, w/atchs, dated DD 30 Apr 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

**X**

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Board Operations Manager, AFBCMR