

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 February 2024

DOCKET NUMBER: AR20230005292

APPLICANT REQUESTS: reinstatement and extension of his retirement household goods (HHG) and travel entitlements.

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, 30 September 2019
- Retirement orders, 30 September 2019
- Weight Tickets, privately owned vehicle, empty and full
- Divorce Decree

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 he requests an authorized exception as well as extension to the Joint Travel Regulation (JTR) due to a hardship, for his household goods entitlement to be extended for his final move upon retirement. The JBLM travel office stated that there is an exception to the JTR policy, then later told him they did not have the authority and he would have to appeal through the Board of Corrections at the Pentagon.
 - a. Under the JTR, a retiree has one year to have their household goods shipped to their home of selection (HOS), this can be extended under such regulation up to three years in case of hardship according to the Travel office at Joint Base Lewis McChord, WA. He is requesting to be reimbursed for his move to Perry, FL which he completed 9 March 2023. This move was imperative to his son's mental health and/or wellbeing. It has, however, left him in great financial hardship. On 16 August 2019, his previous marriage was dissolved, less than two months prior to his retirement date. His former wife and he have three children, ages at time of his retirement were 13, 15 and 17. She refused to allow him to move the kids to FL.

b. That has changed due to his son, now 16, being diagnosed with depression and thoughts of suicide. His therapist/doctors have stated that the continual wet/dark weather in WA State and pressures from school can be contributing to these issues, he has now been removed from school and is working toward a GED. His ex-wife will remain in WA State, but he will be living with him in FL, September through March. They believe this will help their son's wellbeing, helping combat his depression/disruptive thoughts. They have already seen improvement in his overall mental health during his first visit here. Therapists/doctors are in agreement.

3. Review of the applicant's service records shows:

a. He enlisted in the Regular Army on 6 April 1999. He served through multiple extensions or reenlistments, in a variety of stateside or overseas assignments, attaining the rank/grade of sergeant first class (SFC)/E-7.

b. On 21 February 2019, Directorate of Human Resources, Joint Base Lewis-McChord, WA published Orders 052-0023 announcing his retirement from active duty on 30 September 2019 and placement on the retired list on 1 October 2019. The orders stated in the Additional instructions:

- You are authorized up to 1 year to complete selection of a home and travel in connection with this action
- Official travel arrangements purchased through a commercial travel office (travel agency) not under contract to the government is not reimbursable

c. He retired on 30 September 2019, and he was placed on the Retired List in the rank of SFC on 1 October 2019. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 20 years, 5 months, and 25 days of active service.

4. The applicant provides:

a. Divorce Order, indicating his marriage to his spouse was dissolved on 16 August 2019.

b. Customer copies of weight tickets for a truck, gross weight empty and full, dated 27 February 2023, and other weight ticket for freight and goods, dated 23 March 2023.

5. There is no evidence in the applicant's records, and he provides none to show he requested and/or received annual transportation extension(s) from a transportation office prior to or after his retirement anniversary date (30 September 2020).

6. On 20 September 2023, the Deputy Chief of Staff, G-4 provided an advisory opinion in the processing of this case. A G-4 official stated their office reviewed the application and noted the following regulatory provisions:

a. The Joint Travel Regulations (JTR) is the basic statutory regulation governing a uniformed member's travel and transportation at Government expense and has the force and effect of law issued primarily under the authority of Title 37 United States Code Section 481. The following JTR requirement was in effect for all retirement orders with a retirement date prior to 24 June 2022. JTR paragraph 051003-11, Time Limitations for Travel to the Home of Selection (HOS). A Service member and dependents must begin travel to an HOS within 1-year of the Service member's termination from active duty unless additional time is authorized or approved. JTR paragraph 052013, HHG Transportation in Connection with Retirement, B. Time Limits. HHG must be turned over for transportation within 1-year following active-duty termination.

b. The applicant's retirement orders, dated February 21, 2019, with a retirement date of September 30, 2019, provided instructions in additional instructions, paragraph a: "You are authorized up to one year to complete selection of a home and travel in connection with this action." The retiree was required to request and receive annual transportation extension(s) from a transportation office each year prior to his retirement anniversary date. The applicant did not submit an extension before his one year of authorization expired September 30, 2020. This office lacks the JTR authority to retroactively approve an expired travel and transportation authorization 29 months after the fact.

7. The applicant was provided with a copy of this advisory opinion to give him an opportunity to provide a rebuttal. He did not respond.

8. The JTR is the basic statutory regulation governing a uniformed member's travel and transportation at government expense and has the force and effect of law issued primarily under the authority of 37 USC section 481. The JTR is interpreted to have the force and effect of law, indicates that retirement transportation and travel entitlements will be used within 1 year of retirement; however, it also provides for extensions of this entitlement in 1-year increments up to five additional years, or a total of 6 years. Extensions due to unforeseen medical reasons, education or training, and/or other deserving cases when an unexpected event beyond the retiree's control occurs which prevents the retiree from moving within the time limits may be granted under these extension provisions.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.
2. The JTR does indicate that retirement transportation and travel entitlements will be used within 1 year of retirement; however, it also provides for extensions of this entitlement in 1-year increments up to 5 additional years, or a total of 6 years. The evidence indicates that the applicant failed to submit a request for extension in a timely manner due to a series of personal and family related issues, it is further presumed that had the applicant filed his extension request on time, it would have been granted.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was 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 by:

a. showing he was granted the necessary 1-year extensions, on each anniversary date through 30 September 2024 of his earned and authorized retirement travel and transportation entitlement in order to allow his move to a designated retirement location at Government expense.

b. reimbursing him the authorized amount if his move has already been accomplished at his own expense.

c. If the move has not been accomplished, the applicant is cautioned that he must submit future extension requests (i.e., another 1-year extension for the period ending 30 September 2025, through normal transportation office channels, and his request would be subject to government approval. It is recommended that he submit future extension requests not later than 60 days before his entitlement is to expire (i.e., not later than 30 July 2024).

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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, United States 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. The Joint Travel Regulation (JTR) contains basic statutory regulations concerning official travel and transportation of members of the uniformed services. A Service member on active duty is authorized HHG transportation from the last or any previous PDS (permanent duty station) when the Service member is retired for physical disability or placed on the TDRL, regardless of length of service, or retired with pay for any other reason. The authority begins on the date the order is issued and ends 1 year from the active-duty termination date, unless otherwise indicated in this paragraph. A Service member undergoing hospitalization or medical treatment on the date of active-duty termination, or for any period of time during the 1-year period following such date is authorized non-temporary storage.

3. Table 5-53 (Extension of HHG Shipping Time Limits):

a. If a service member who is authorized HHG transportation to a HOS (home of selection) is confined in or undergoing treatment at a hospital for any period of time during the 1-year period following active-duty termination, and NTS (non-temporary storage) are authorized until 1 year after the active-duty termination date plus a period equal to the Service member's hospitalization or treatment period. The time period for HHG transportation may be extended through the Secretarial Process. The NTS time period cannot be extended. Any NTS in excess of this total time is the Service member's responsibility.

b. If a service member is authorized HHG transportation under paragraph 051003-A and paragraph 051003-B is undergoing education or training to qualify for transition into civilian employment on the active-duty termination date, is authorized until 1 year after the education or training is completed, or 2 years after the active duty termination date, whichever is earlier. This time period may be extended through the Secretarial Process. There is no authority to extend NTS beyond the 1 year active-duty termination.

c. If a service member begins education or training to qualify for transition into civilian employment during the 1-year period following the active-duty service termination date, or during a longer period authorized due to hospitalization or medical treatment, is authorized until 1 year after the education or training is completed, or 2 years after the active duty termination date, whichever is earlier. This time period may

be extended through the Secretarial Process. There is no authority to extend NTS beyond the 1 year active-duty termination.

4. Paragraph 052013 provides for other deserving cases.

a. Time limit extensions may be authorized or approved through the Secretarial Process when:

(1) An unexpected event beyond the Service member's control occurs that prevents him or her from moving to the HOS (home of selection) within the specified time limit.

(2) The extension is in the Service's best interest or to the Service member's benefit, and it is not more costly or adverse to the Service, including cases where the 1-year time limit has already been extended due to hospitalization, medical treatment, education, or training.

b. Time limit extensions may be authorized or approved only for the specific period of time the Service member anticipates is needed to complete the move. If, at the expiration of this extension period, additional time is required, the Service member may request an additional extension through the Secretarial Process, explaining the reasons for the extension. An additional authorized period for a specific time may then be authorized or approved through the Secretarial Process. Time-limit extensions are not authorized for any reason for more than 6 years from the date of separation, release from active duty, or retirement. Also see paragraph 051003-I for restrictions on time limit extensions.

4. Paragraph 051003-I deals with Time Limitations for Travel to the HOS (home of selection). It states, a Service member and dependent must begin travel to an HOS within 1 year of the Service member's termination from active duty unless additional time is authorized or approved through the Secretarial Process.

//NOTHING FOLLOWS//