

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 June 2024

DOCKET NUMBER: AR20230013263

APPLICANT REQUESTS: in effect, correction of his record to show retroactive approval of extension for transportation of Household Goods (HHG).

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

- DD Form 149 (Application for Correction of Military Record)
- Headquarters (HQs), U.S. Army Garrison, Fort Bragg Orders Number 159-0263
- DA Form 31 (Request and Authority for Leave)
- Request for Exception to Policy (ETP) for Government Move
- Army Field Support Battalion – Liberty Memorandum, Subject: Shipping and Travel Entitlement Extension
- Fort Bragg Transportation Office instructions

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 effect, the injustice is that he was denied the transportation of his HHG to his Home of Selection (HOS) at the Government's expense when he requested to move on 16 July 2023 after his retirement on 30 September 2018.

a. He was instructed by the Fort Liberty Transportation Office he had up to 5-years to use this benefit. The denial of the authorization for the transportation of his HHG has created a significant financial hardship on him and his family. Since his retirement, he has resided in Fort Liberty Military housing which is the same housing he was residing in prior to his retirement.

b. He attended the transportation briefing at Fort Liberty in 2018 which was required for his separation from active duty. The transportation representative advised retirees could extend the utilization of the transportation of HHG up to 5-years after the date of retirement. At the briefing all service members were provided a packet which did not

specify the requirement for annual extensions of this authorization for those who did not or could not move within the first year. Extenuating circumstances should not deter from the intent of the granter when the implementation was not clear or non-existent in modes of communication between the transportation office and the user. He was provided his retirement orders on 12 June 2018 and was rushed through the clearing process to be completed prior to the date his leave began.

3. A review of the applicant's service record shows:

a. On 20 April 1994, the applicant enlisted in the Regular Army (RA) and had continuous service through reenlistments.

b. On 8 January 2004, the applicant was honorably released from active duty. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed 9 years, 8 months, and 19 days of active service.

c. On 27 July 2004, the applicant enlisted in the RA and had continuous service through reenlistments.

d. On 18 May 2018, the applicant's request for a voluntary retirement to be effective 30 September 2018 was submitted to the U.S. Army Human Resources Command (HRC), Enlisted Personnel Management Division, Retirement Separations. In his request for retirement, he identified a specific address which he was retiring to in Cameron, NC. The applicant stated in his retirement packet his request was being submitted outside the prescribed time frame due to administrative coordination and document processing through the USAR component.

e. On 22 May 2018, the applicant's chain of command was notified his voluntary retirement with the effective date of 1 October 2018 was approved. He was required to initiate Soldier for Life – Transition Assistance Program (SFL-TAP) services and receive a congressionally mandated pre-separation briefing and complete all the required career readiness standards.

f. On 8 June 2018, Orders Number 159-0263, issued by HQs, U.S. Army Garrison, Fort Bragg, the applicant was placed on the retired list, effective 1 October 2018. The additional instructions stated, "You are authorized up to 1 year to complete selection of a home and complete travel in connection with this action."

g. On 30 September 2018, the applicant was honorably retired from active duty. His DD Form 214 shows he completed 14-years, 2-months, and 4-days of active duty for this period of service and 9-years, 8-days, and 19- days of prior active service.

4. The applicant provides:

a. DA Form 31 dated 25 April 2018 shows he was approved for 97-days of transition leave which began on 26 June 2018. Of this period, 20 days, from 26 June to 15 July 2018 for permissive temporary duty and the remainder was leave.

b. Undated Letter from the applicant to the Fort Liberty Transportation Office requesting an ETP (exception to policy) for the movement of his HHG which stated since his retirement he had been residing at the Fort Liberty Military Housing which was the same address he was at when he retired. He believed he was unaware of the requirement to annually request an extension. Due to administrative issues, he did not receive his retirement orders until 12 June 2018 which caused him to only have seven-days to clear the installation. Being he was rushed through the process; he could not remember everything the briefers had provided. His personal note from the briefing only mentioned he was authorized up to -years to move his HHG.

(1) His father passed in August 2019, and he remembers contacting the transportation office as he and his family was considering moving to Florida to assist with his mother's care upon the passing of his father. However, he does not remember any mention of the requirement for an annual extension. He did stay in Florida until January 2020 but he returned to his residence at Fort Liberty which was American of Disabilities Act compliant for his spouse.

(2) In March 2021, he contracted Coronavirus (COVID-19) and since then his memory and onset of severe depression for several years has clouded his memory especially his retirement out-processing. He relies on notes to prevent him from forgetting things. The lateness of the utilization of this benefit is mostly due to financial considerations which were hampered by his father's passing and contracting COVID-19 and his family is now just recovering from his financial disaster. The financial burden to move his family without being able to use this benefit would be overwhelming.

c. The Army Field Support Battalion – Liberty Memorandum, Subject; shipping and Travel Entitlement Extension, dated 25 July 2023, states the applicant's travel and transportation authorization to his HOS at the Government expense expired on 30 September 2019 and could not be reinstated by HQs Department of the Army. His retirement orders stated in the additional instructions, he was authorized up to 1-year to complete selection of a home and complete travel in connection with this action. The transportation manager provided the applicant the travel and transportation briefing slides used during the mandatory SFL-TAP which clearly identified the annual extension submission requirement to the transportation office.

(1) The Joint Travel Regulation (JTR), paragraph 051003-11 stated the time limitations for travel to the HOS for all retirement orders effective prior to 24 June 2022, a service member and dependent must begin travel to a HOS within 1-years of the

service member's termination from active duty unless additional time was authorized or approved.

(2) The JTR retirement move condition changed from one to 3-years was approved on 24 June 2022 but did not provide any retroactive authority to approve or waive the annual extension requirement for any retirement orders issued prior to 24 June 2022.

d. Fort Bragg Transportation Office instructions for Government move requests of HHG dose not specifically state there was an annual requirement for an extension request and approval.

5. On 28 December 2023, in the processing of his case, the Office of the Deputy Chief of Staff G-4, provided an advisory opinion regarding the applicant's request to reinstate his expired travel and transportation of HHG shipment authorization which ended on 30 September 2019. The advisory official stated the Secretarial process has no JTR authority to reinstate an expired travel and transportation, HHG shipment authorization, which ended on 30 September 2019. 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 Title 37 USC, Section 481. The 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 HOS), states 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. The applicant's retirement orders were dated 8 June 2018 with a retirement date effective 30 September 2018, provided the instructions which stated he was authorized up to 1-year to complete travel in connection with the selection of his home. The applicant requested his first and only travel and transportation extension from the Fort Liberty Transportation office on 17 July 2023. The Office of the Deputy Chief of Staff G-4 lacks the JTR authority to retroactively approve an expired travel and transportation authorization 45-months after the fact.

6. On 4 January 2024, the Army Review Boards Agency, Case Management Division provided the applicant the advisory opinion for review and comment. He did not respond.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The

applicant requests reinstatement of his expired travel and transportation of HHG shipment authorization. The evidence of record shows the applicant was honorably retired on 30 September 2019. His retirement orders stated that he was authorized up to 1 year to complete selection of a home and complete travel in connection with this action and that he should contact the appropriate transportation office for making HHG shipment arrangements. The JFTR 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 5 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. The Board found no evidence the applicant was not properly counseled. He was a senior NCO on an active duty installation, and he did not provide a convincing argument that explained the circumstances that led to his failure to submit the extension request on time.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	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.

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, USC, 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. JTR (Uniformed Service Members and DoD Civilian Employees), the JTR implements policy and laws establishing travel and transportation allowances of Uniformed Service members and DoD civilian travelers. The JTR has the force and effect of law for travelers and implements statutory regulations and law for DoD civilian travelers. Organizations are expected to take appropriate disciplinary action when travelers willfully fail to follow the JTR. Chapter 5: Permanent Duty Travel (PDT) Part C: Household Goods Transportation (Service Members) The topic of HHG transportation includes a variety of functions associated with getting a Service member's or dependent's personal belongings from one location to another. Included in this section is the policy for the actual transportation or relocation of HHG, storage of HHG, and the various transportation methods available. Also in this section are the allowances for transportation of unaccompanied baggage; professional books, papers and equipment (PBP&E); and required medical equipment. A Service member is authorized transportation of HHG when moving is necessary due to a permanent change of station (PCS) or other reasons in this section.

a. Subparagraph K, an extension cannot be authorized or approved if it extends travel and transportation allowances for more than 6-years from the date of separation, release from active duty or retirement. The only time the 6-years may be exceeded is when a Service member's certified on-going medical condition prevents relocation of the dependent for longer than 6 years from the notification date.

b. Subparagraph I (Time Limitations for Travel to the HOS), a Service member and dependent must begin travel to an HOS within 3-years of the Service member's termination from active duty unless additional time is authorized or approved through the Secretarial Process. A Service member is eligible for the 3 year time limitation if the active duty termination effective date is on or after 24 June 2022. The 3-year time limitation does not apply retroactively to a travel authorized for a Service member or dependent with an effective active duty termination date before the effective date. If a Service member is prevented from traveling due to an unexpected event that is beyond the Service member's control and is related to the Service member's separation from the Service, the 3-year time limit applies for both the Service member and dependent's travel unless extended through the Secretarial Process. Any extension must be in the Service's best interest or substantially benefit the Service member and is not costly and does not have an adverse impact to the Service. 2. A Service member must request all

extensions in writing using the Secretarial Process. An extension may not be for more than 6-years from the date of retirement. The request must include the following: a. A description of the circumstances that prevent travel within the specified time period. b. The specific amount of additional time required. An extension should be for the shortest time necessary based on the circumstances. The 6-year limit may only be extended for travel to the HOS if a Service member has a certified and on-going medical condition.

c. Paragraph C (Other Deserving Cases), time-limit extensions may be authorized or approved through the Secretarial Process when: a. An unexpected event beyond the Service member's control occurs that prevents him or her from moving to the HOS within the specified time limit. b. 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. This includes cases where the 1-year time limit has already been extended due to hospitalization, medical treatment, education, or training. 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.

//NOTHING FOLLOWS//