

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 August 2024

DOCKET NUMBER: AR20230013570

APPLICANT REQUESTS: in effect, correction of his Home of Record (HOR) at time of entry, from [REDACTED] to [REDACTED]

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

- DD Form 149 (Application for Correction of Military Record)
- State of Texas Academic Achievement Record, 31 January 1989
- DD Form 214 (Certificate of Release or Discharge from Active Duty)

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 is a 100 percent disabled Veteran who was raised and graduated from [REDACTED] prior to going into the military (Army 1992). His DD Form 214 states that my home of record is [REDACTED]. He would like his HOR at time of entry to reflect [REDACTED] where he was raised, graduated, and left from when he went to basic training and advanced individual training. He has provided proof of verification with his high school transcripts showing that he went to [Name of] High School in [REDACTED] from 9th grade until 12th grade when he graduated on May 30, 1992, and then he reported to basic training on July 28, 1992. His school transcripts also shows proof of his address in [REDACTED]
3. The applicant provides a copy of his State [REDACTED] Academic Achievement Record dated 31 January 1989 with a proposed graduation of 1992. It lists his requested address.
4. The applicant enlisted in the Regular Army on 28 July 1992 at the [REDACTED] Military Entrance Processing Station. His DD Form 4 (Enlistment/Reenlistment Document – Armed Forces of the United States) lists the contested HOR, [REDACTED]  
[REDACTED]

6. The applicant reenlisted in the Regular Army on 26 March 1996. His reenlistment contract listed his place of enlistment/reenlistment as Fort Riley, KS, but his HOR remained the same, [REDACTED]
5. On 13 January 1999, prior to his release from active duty, at Fort Riley, KS, he executed a Reserve Component Transition Enlistment into the Army National Guard to be effective 26 March 1999. This enlistment contract listed his requested HOR [REDACTED] on the DD Form 4.
6. He was honorably released from active duty upon the completion of his required active service on 25 March 1999, and transferred to a Reserve unit in [REDACTED]. This form shows his Reserve Obligation Term of Service as 26 September 1999 and lists in:
- Block 7a (Place of Entry on Active Duty) [REDACTED]
  - Block 7b (Home of Record) [REDACTED]
7. He was honorably discharged from the [REDACTED] Army National Guard on 1 January 2001. His National Guard Bureau Form 22 (Report of separation and Record of Service) does not list his HOR.
8. HOR is the place recorded as the HOR of the Soldier when commissioned, appointed, enlisted, or ordered to a tour of active duty. This cannot be changed unless there is a break in active service of at least 1 full day, or it is determined by the U.S. Army Human Resources Command (AHRC) to be factually incorrect. HOR is not necessarily the same as the legal domicile as defined for income tax purposes. Legal domicile may change during a Soldier's career.

#### 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. By law and regulation, the HOR is the place recorded as the HOR of the Soldier when commissioned, appointed, enlisted, or ordered to a tour of active duty. This cannot be changed unless there is a break in active service of at least 1 full day, or it is determined by the U.S. Army Human Resources Command to be factually incorrect. HOR is not necessarily the same as the legal domicile as defined for income tax purposes. Board members agreed that the DD Form 214 reflects the facts and circumstances at the time the form was processed.

- a. A majority of the Board determined that the evidence shows the applicant enlisted at the [REDACTED] MEPS and listed his HOR as [REDACTED] is the home recorded on his enlistment contract at the time of enlistment. Therefore, his DD

Form 214 correctly listed the place where he enlisted. The Board found no error or injustice.

b. The member in the minority determined that the applicant provided substantial evidence he went to high school in [REDACTED] so unless he moved to [REDACTED] in the 2 months after graduation before shipping, the member in the minority determined relief is warranted.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	■	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.

8/1/2024

X

CHAIRPERSON

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, U.S. 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. Army Regulation 635-8 (Separation Processing and Documents) provides the policies and procedures for separation documents. It states, in pertinent part, a Soldier's initial enlistment contract or appointment document is the source for this data. List the street address, city, state, and zip code listed as the Soldier's HOR. For Reserve Component Soldiers, the active duty order lists the Soldier's HOR. HOR is the place recorded as the HOR of the Soldier when commissioned, appointed, enlisted, or ordered to a tour of active duty. This cannot be changed unless there is a break in active service of at least 1 full day, or it is determined by the AHRC to be factually incorrect. HOR is not necessarily the same as the legal domicile as defined for income tax purposes. Legal domicile may change during a Soldier's career.

3. A Soldier's initial enlistment contract or order to active duty is the source document for the Place of Entry into Active Duty. Officers enter active duty in accordance with their initial order to active duty. Normally, this is a temporary duty location for attendance at the Basic Officer Leader Course or other temporary duty location (for example, in support of Reserve Officers' Training Command Summer Camp or Gold Bar Recruiting duties). Army National Guard and U.S. Army Reserve Soldiers, the active duty order for this period of service will list where the Soldier enters active duty (for example, home address, home station, mobilization station, Army installation, and so forth). Normally, this location is the first "Report to" lead line listed on the order.

4. The Joint Federal Travel Regulation provides that the HOR is the place recorded as the home of the individual at the time of enlistment or induction. There is no authority to change the HOR as officially recorded at time of entry into the military service. However, there is authority to correct a HOR if erroneously entered on the records at that time, and then only for travel and transportation purposes. Correction of the HOR must be based on evidence that a bona fide error was made and the HOR as corrected must have been the actual home of the individual at the time of entry into the relevant period of service. It must not be a place selected for the convenience of the Soldier.

//NOTHING FOLLOWS//