

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 August 2024

DOCKET NUMBER: AR20240001130

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show in:

- item 7a (Place of Entry onto Active Duty): that reflected in item 19a (Mailing Address after Separation)
- item 7b (Home of Record (HOR)) - that reflected in item 19a

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)
- Department of Veterans Affairs (VA) Rating Decision, 15 May 2023
- 1-page Article, "What Does the Hazlewood Act Cover?"

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 changed his HOR to his requested HOR around 1988. He also reenlisted in the Army National Guard at his requested HOR, but it does not reflect on his DD Form 214. He is a permanent and totally disabled Veteran and needs his HOR changed to receive benefits under the Hazlewood Act.
3. The applicant enlisted in the Regular Army on 15 July 1987. His DD Form 4 (Enlistment/Reenlistment Document – Armed Forces of the United States) lists the contested HOR and place of entry.
4. He was honorably released from active duty upon the completion of his required active service on 6 December 1994. The DD Form 214 he was issued shows in:
 - item 7a – the contested place of entry on active duty

- item 7b (HOR) – the contested HOR
- item 19a (HOR) – the requested place of entry on active duty and HOR

5. On 29 September 1994, effective 7 December 1994, he executed a Reserve Component Transition Enlistment into the Army National Guard. He listed his requested HOR on the DD Form 4.

6. The applicant provides a VA Rating Decision dated 15 May 2023 and a portion of an article referencing the Hazlewood Act.

7. 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 Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. The evidence presented does not demonstrate the existence of a probable error or injustice. The evidence of record shows the applicant's place of entry into active duty and home of record at time of entry, as annotated on his enlistment document, is an address in Brooklyn, New York. The address provided by the applicant as the mailing address after separation, reflective of an address in Round Rock, Texas, does not substantiate the conditions at the time of entry on active duty. Based on the foregoing, the Board denied relief.

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, 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//