


**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2019-141


AD3 (former)

FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the completed application on May 29, 2019, and assigned the case to the Deputy Chair to prepare the decision in accordance with 33 C.F.R. § 52.61(c).

This final decision, dated September 25, 2020, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

The applicant, an Aviation Machinist's Mate (AD3/E-4) who was honorably discharged in 1992, asked the Board to correct his record by changing his Home of Record (HOR)¹ from a city in State A to a city in State B. He stated that when he enlisted in the Coast Guard, he used his mother's address in State A as his HOR although he had been living in State B. He also requested that the Board correct his mailing address on his DD-214 from an address in State A to an address in State B.

The applicant stated that he has lived in State B for most of his life and considers it home. He stated that he attended grade school in State B and has continuously held a Driver's License in that state since 1978. Before he enlisted in the Coast Guard, the applicant was an owner-operator of a truck. He stated that he kept his belongings either with him in his truck or at his sister's home in State B. When he decided to enlist in the Coast Guard, his mother offered to store his belongings at her home in State A. He also stated that his mother suggested that he use her address so she could hold his forwarded mail. He stated that on the day of his separation from the Coast Guard, he moved back to State B with his wife and they still live there to this day.

¹ Home of Record is the city, state, or complete address where the member originally entered active duty without a break in service. COMDTINST M1900.4D, Appendix A, Part 1 of the Joint Federal Travel Regulations (JFTR) states that a member's HOR is the place recorded as the home of the individual when commissioned, appointed, enlisted, inducted, or ordered into a tour of active duty.

To address the delay in submitting his application, the applicant stated that he did not consider having State A as his HOR an issue at the time of his discharge. However, now that he is looking into retiring, he would like to utilize some of the benefits of being a veteran in State B.

The applicant provided several documents to support his request. First, he provided two Driver's Daily Logs for September 28, 1986, and October 10, 1986, which show the address of his truck as a city in State B.² Second, the applicant provided documentation of three separate Coast Guard leave requests between December 1988 and January 1989, which show the leave address as a P.O. Box in State B. Third, the applicant provided a Department of Public Safety document from State B, which shows that the applicant was issued a Driver's License on March 7, 1978, and then again on March 16, 2018. Finally, the applicant provided a letter from his sister, who stated that the applicant lived with her in State B from early 1980 until he enlisted in March 1987. She also stated that when the applicant was discharged in March 1992, the applicant moved back to the same address that he had been previously living in State B. She stated that the applicant has since purchased the land from her and currently resides there.

SUMMARY OF THE RECORD

On March 11, 1987, in preparation for enlisting in the Coast Guard, the applicant consented to a Police Record Check. On the Police Record Check form, which was signed by the applicant, the Coast Guard recruiter noted that the applicant had lived at an address in State B³ from July 1984 to March 1985 and that he had lived at the address in State A shown on his DD-214 from March 1985 to the present.

On May 11, 1987, the applicant enlisted in the Coast Guard at a recruiting office in State A. On his Enlistment Contract, two separate blocks, the applicant's HOR and his Home Shown on W-4, list the same city in State A shown on his DD-214. The applicant signed his Enlistment Contract.

On April 9, 1992, the applicant was honorably discharged from the Coast Guard. On his DD-214, his HOR in Block 7b. shows a city in State A and his mailing address in Block 19a. shows an address in State A.

A Coast Guard Reserve Retirement Points Statements for the period April 10, 1992, to April 9, 1993, lists the applicant's address as the same address shown on his DD-214.

On April 16, 1992, the applicant submitted a Payment Option Election form in which he requested to have his payments delivered to the same address shown on his DD-214.

A Tax Information form, dated June 11, 1992, lists the applicant's mailing address as the same address shown on his DD-214.

² The city listed on the Driver's Daily Logs is different than the city in which the applicant is requesting to have his HOR and mailing address changed to on his DD-214.

³ The address listed on the Police Record Check in State B is in a different city than the one the applicant is requesting to have his HOR and mailing address changed to on his DD-214.

On July 11, 1992, the applicant received a letter from the Commander of his District. The letter notified him that he was assigned to the Individual Ready Reserve and that he was required by law to keep his District informed of his current address. The applicant's address listed on the letter lists the same address shown on his DD-214.

A Tax Information form, effective May 10, 1995, lists the applicant's mailing address as the same address shown on his DD-214.

VIEWS OF THE COAST GUARD

On October 23, 2019, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion in which she recommended that the Board deny relief in this case and adopted the findings and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

PSC stated that the applicant's request is not timely. Regarding the merits of the case, PSC argued that the applicant failed to provide sufficient documentation that the Coast Guard committed an error or injustice regarding his DD-214.

PSC stated that the applicant utilized the address in State A, listed on his DD-214, for the purposes of residence reporting on a state law enforcement check. The applicant certified that he resided at the address in State A for over two years prior to his enlistment in the Coast Guard. Further, PSC stated that the applicant utilized the address in State A on his Enlistment Contract into the Coast Guard, Pay Option Election form, Tax Information form, and Reserve Retirement Point Statement form.

PSC argued that the applicant failed to provide sufficient documentation that an error exists in his record. Specifically, PSC argued that the applicant's leave requests, daily logs from when he was a truck driver, and his Driver's License do not establish residency. Further, PSC noted that none of the cities listed on these documents coincide with the address the applicant claimed to be residing at in State B.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On October 30, 2019, the Chair sent the applicant a copy of the Coast Guard's views and invited him to respond within thirty days. In his response, the applicant maintained that he has been a resident of State B for his entire adult life and considers it home.

The applicant stated that he was unable to find extensive evidence of his residency in State B prior to his enlistment due to poor record keeping. However, he stated that there is no ill intent with his request. He stated that he used his mother's address in State A as his HOR out of convenience because she had a stable address and offered to store his belongings. After bringing his belongings to his mother's home, he went to the nearest enlistment office to join the Coast Guard.

The applicant stated that his request is based on his daughter's need for tuition assistance through a veterans-based program in State B. The applicant argued that in order to utilize the

program, his HOR needs to reflect State B. He stated that he was never able to use his own G.I. Bill benefits, and the veterans-based program in State B is a way to recoup some of the money. He stated that he only learned about the tuition assistance program in 2019, which explains the delay in submitting his request.

To support his application, the applicant provided additional documentation. First, the applicant provided documentation to show that he opened a bank account in State B in 1992. Second, he provided documentation of two deeds for properties in State B dated 1994 and 1998.

APPLICABLE LAW AND POLICY

The Glossary of the Joint Federal Travel Regulations define Home of Record as follows:

The place recorded as the home of the individual when commissioned, appointed, enlisted, inducted, or ordered into the relevant tour of active duty. The place recorded as the home of the individual when reinstated, reappointed, or reenlisted remains the same as that recorded when commissioned, appointed, enlisted or inducted or ordered into the relevant tour of active duty unless there is a break in service of more than one full day. Only if a break in service exceeds one full day, can the HOR be changed by the member. Travel and transportation allowances are based on the officially corrected recording in those instances when, through a bona fide error, the place originally named at time of current entry into the Service wasn't in fact the actual home. Any such correction must be fully justified and the home, as corrected, must be the actual home of the member upon entering the Service, and not a different place selected for the member's convenience. An officer who received a commission or warrant from an enlisted grade or was called to active duty as an officer while serving as an enlisted member and erroneously designated the place where then serving as the home may be paid allowances to the HOR in the enlistment papers upon subsequent separation from the Service or release from active duty, provided the member certifies erroneous designation of a duty station or a nearby place as the home at time of commission whereas the home was in fact the place shown in the enlistment papers.

The instructions for the preparation and distribution of the Certificate of Release or Discharge from Active Duty, DD Form 214, COMDTINST M1900.4C, states the following in relevant part:

Block 7b. Home Record at Time of Entry. Enter city and state, or complete address if known where member originally entered active duty without a break in service. If the member has had a break in service of 1 full day or more, enter city and state as indicated in the member's new enlistment contract or active duty initial information form.

Block 19a. Mailing Address after Separation. Enter the complete address (street/RFD, city, county, state and ZIP Code) where the member intends to reside permanently following separation.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on the applicant's military record and submissions, the Coast Guard's submission and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552.

2. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice.⁴ The applicant was discharged in 1992 and received and signed his DD-214 showing his HOR and mailing address at the time. Therefore, the preponderance of the evidence shows that the applicant knew of the alleged error in his record in 1992, and his application is untimely.

3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.⁵ In *Allen v. Card*, 799 F. Supp. 158 (D.D.C. 1992), the court stated that the Board should not deny an application for untimeliness without “analyz[ing] both the reasons for the delay and the potential merits of the claim based on a cursory review”⁶ to determine whether the interest of justice supports a waiver of the statute of limitations. The court noted that “the longer the delay has been and the weaker the reasons are for the delay, the more compelling the merits would need to be to justify a full review.”⁷ Pursuant to these requirements, the Board finds the following:

a. Regarding the delay in applying to the Board, the applicant explained that at the time of his discharge, he did not consider having State A as his HOR an issue. However, he would now like to utilize some of the benefits of being a veteran in State B. The Board finds that the applicant’s explanation for the delay is not compelling because he failed to show that anything prevented him from seeking correction of the alleged error or injustice more promptly.

b. A cursory review of the merits of this case shows that the applicant’s claim lacks potential merit. Regarding the applicant’s request to change his HOR, the documentation presented is insufficient to support a correction. As noted in the Glossary of the Joint Federal Travel Regulations, any correction of an HOR “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 applicant’s Enlistment Contract lists his HOR in the same place that appears on his DD-214. Further, the Police Record Check shows that the applicant claimed to have lived at the address shown on his DD-214 for the two years directly preceding his enlistment. Regarding the applicant’s request to change his mailing address, the Board has found that “[a] DD-214 is a record of a single period of enlistment, like a snapshot, and it is supposed to reflect the facts of that enlistment and to be accurate as of the date of discharge...”⁸ Although the applicant may now be living at a different address, several Coast Guard documents demonstrate that the applicant used the same mailing address shown on his DD-214 directly upon his discharge. Therefore, the disputed record is presumptively correct,⁹ and the record contains no persuasive evidence that substantiates his allegations of error or injustice in his official military record.

⁴ 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22.

⁵ 10 U.S.C. § 1552(b).

⁶ *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

⁷ *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

⁸ Dept. of Homeland Security, Board for Correction of Military Records, Docket 2009-060, Final Decision.

⁹ 33 C.F.R. § 52.24(b); *see Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992) (citing *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979), for the required presumption, absent evidence to the contrary, that Government officials have carried out their duties “correctly, lawfully, and in good faith.”).

4. Accordingly, the Board will not excuse the application's untimeliness or waive the statute of limitations to conduct a thorough review of the merits. The applicant's request should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former AD3 [REDACTED], USCG, for correction of his military record is denied.

September 25, 2020

