DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2008-142

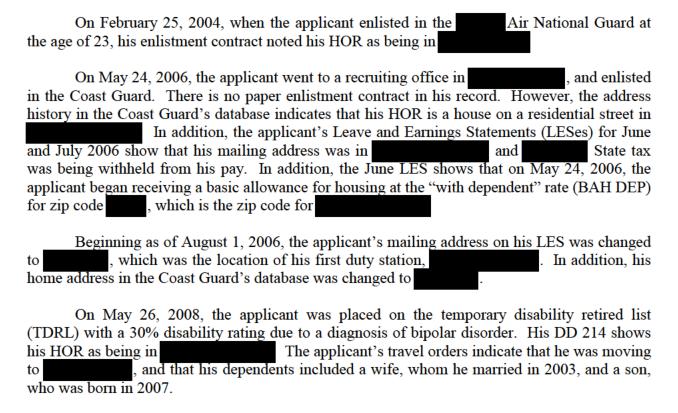xxxxxxxxxxxxxxxxxxxxxx
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FINAL DECISION

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the case on May 23, 2008, upon receipt of the applicant's completed application, and assigned it to staff member ██████ to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated February 26, 2009, 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 asked the Board to correct his official home of record (HOR) on his discharge form DD 214 from ██████████ to ████████ The applicant alleged that the ████████, address that is currently shown as his HOR on his DD 214 resulted from an "error of paperwork during [his] transition from [the] Air National Guard to the United States Coast Guard."

The applicant stated that he enlisted in the Air National Guard on February 25, 2004, and that those enlistment records show that his HOR is in ████████. He stated that he is from ████████ and had lived there his whole life. However, when he enlisted in the Coast Guard on May 24, 2006, he filled out his paperwork and wrote down his then current address in ████████ as his HOR. He stated that this was an error because ████████ is not his HOR, "but rather where [he] was living while stationed in the Air National Guard. I was living in ██ and because of this the recruiter assumed my Home of Record was my residence. Not being savvy and trained in the regulations of enlistments, I assumed the paperwork would be filled out correctly and signed [it]."

In support of his allegations the applicant submitted a copy of his ████ Air National Guard enlistment contract dated February 25, 2004, which shows that his HOR was ████████ ██ and that his place of enlistment was ████████ He also submitted a copy of his Coast Guard DD 214, dated May 26, 2008, which shows his HOR as ████████

SUMMARY OF THE RECORD

On February 25, 2004, when the applicant enlisted in the ████ Air National Guard at the age of 23, his enlistment contract noted his HOR as being in ██████████

On May 24, 2006, the applicant went to a recruiting office in ██████████, and enlisted in the Coast Guard. There is no paper enlistment contract in his record. However, the address history in the Coast Guard's database indicates that his HOR is a house on a residential street in ██████████ In addition, the applicant's Leave and Earnings Statements (LESes) for June and July 2006 show that his mailing address was in ██████████ and ████████ State tax was being withheld from his pay. In addition, the June LES shows that on May 24, 2006, the applicant began receiving a basic allowance for housing at the "with dependent" rate (BAH DEP) for zip code █████, which is the zip code for ██████████

Beginning as of August 1, 2006, the applicant's mailing address on his LES was changed to ████████, which was the location of his first duty station, ██████████. In addition, his home address in the Coast Guard's database was changed to ██████████.

On May 26, 2008, the applicant was placed on the temporary disability retired list (TDRL) with a 30% disability rating due to a diagnosis of bipolar disorder. His DD 214 shows his HOR as being in ██████████ The applicant's travel orders indicate that he was moving to ████████, and that his dependents included a wife, whom he married in 2003, and a son, who was born in 2007.

VIEWS OF THE COAST GUARD

On October 14, 2008, the Judge Advocate General submitted an advisory opinion adopting the findings and analysis provided in a memorandum on the case prepared by the Coast Guard Personnel Command (CGPC). CGPC recommended that the Board deny the applicant's request. In support of this recommendation, CGPC noted that the Joint Federal Travel Regulations (JFTR), Appendix A, Part 1, define the HOR as follows:

HOME OF RECORD (HOR). The place recorded as the home of the individual when commissioned, appointed, enlisted, inducted, or ordered into a tour of active duty.

NOTE 1: 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 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 may the member change the HOR.

NOTE 2: 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 was not 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.

CGPC further noted that Article 1.G.1. of the Personnel Manual states that "the enlist-ment of any person who has previously served in the Regular Coast Guard."[1]

CGPC stated that while a member of the Air National Guard, the applicant was assigned to a squadron in ███ and served a total of 6 months and 19 days of active duty. He was released from the Air National Guard on May 23, 2006, so that he could enlist in the Coast Guard on May 24, 2006. CGPC stated that "[a]t the time of his original enlistment in the Coast Guard, he listed his residence as ████████████, and he was enlisted at Recruiting Office ██ ████████ CGPC stated that his "HOR for the Coast Guard is based upon his home at the time he enlisted in the Coast Guard." When he enlisted in the Coast Guard, "he was living in and claimed ██ as his home. While he served in the ANG, the reserve status and HOR from the non-active component do not carry over to his new period of active duty."

CGPC argued that the applicant "has failed to substantiate the existence of an error or injustice regarding his HOR. The JFTR requires that the applicant fully justify correction of a bona fide error of the HOR and that the home, as corrected, be the actual home of the member upon entering the Service." CGPC argued that the applicant's contract on May 24, 2006, was an original enlistment contract, rather than a reenlistment contract, and so his HOR upon his enlist-ment in the ANG may not be carried over.

Finally, CGPC noted a few errors in block 12 of the applicant's DD 214 concerning the applicant's time in service. CGPC stated that these errors "can be administratively corrected by the Coast Guard."[2]

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On October 16, 2008, the Chair sent the applicant a copy of the Coast Guard's advisory opinion and invited him to respond within 30 days. No response was received.
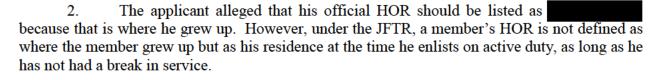
FINDINGS AND CONCLUSIONS

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

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

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[1] Article 1.G.1.a. of the Personnel Manual states that "[t]he enlistment of any person who has previously served in the Regular Coast Guard shall be considered a reenlistment. The enlistment of Coast Guard Reserve personnel who are serving on extended active duty and who have served on extended active duty of 12 months or more shall be considered a reenlistment."

[2] CGPC stated that the applicant date of entry on active duty in block 12 should be changed from November 6, 2005, to May 24, 2006; that his net active service this period should be changed from 2 years, 6 months, and 21 days to 2 years, 0 months, and 3 days; that his total prior active service should be changed from 6 months and 19 days to 6 months and 18 days; and that his total prior inactive service should be changed from 0 to 1 year, 8 months, and 12 days. Because these corrections are not clearly in the applicant's interest and the applicant has not corrected them, the Board should take no action with respect to the alleged errors, although the Coast Guard may do so administratively.

2.   The applicant alleged that his official HOR should be listed as ███████████ because that is where he grew up. However, under the JFTR, a member's HOR is not defined as where the member grew up but as his residence at the time he enlists on active duty, as long as he has not had a break in service.

3.   The preponderance of the evidence in the record shows that when the applicant enlisted in the Coast Guard, his residence was in ███████████ with zip code ████. The ██████████ address he provided is a house, and he was presumably living there with his wife since he received BAH DEP. Moreover, he was paying income tax to the State of ██████ Although the applicant may have grown up in ████████ under the JFTR, ████████████ was his proper HOR on the day he enlisted in the Coast Guard.

4.   The fact that ████████████ was the applicant's HOR when he was a member of the Air National Guard does not prove that it should be his HOR in the Coast Guard because an HOR is only carried over from one period of service to another if the member is reenlisting with no break in service. In this case, the applicant was not reenlisting on May 24, 2006, because he had never previously served on active duty in the Coast Guard. Nor does it appear that the applicant had no break in service as there is no evidence that he was serving on active duty in the Air National Guard when he was discharged from that service on May 23, 2006. Under Article 1.G.1.a. of the Personnel Manual, a contract is only a reenlistment contract if the person has previously enlisted in the regular Coast Guard or if on the date of the contract, the person is a member of the Coast Guard Reserve and has been serving on extended active duty for a continuous period of at least a year.

5.   Accordingly, the applicant's request should be denied.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of SN xxxxxxxxxxxxxxxxxxxxxxxxxxx, USCG, for correction of his military record is denied.