

COMMONWEALTH OF MASSACHUSETTS  
VETERANS' BONUS APPEAL BOARD

2017-VB-02

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IN RE: JAMES MACHADO

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**MEMORANDUM OF DECISION**

The appellant, James Machado ("Machado"), served on active duty in the U.S. Army from March 2011 to September 2014, when he accepted (in lieu of trial by court martial) a discharge under other than honorable conditions. He subsequently applied to the Commonwealth's Veterans' Bonus Division ("Bonus Division") for Welcome Home Bonuses, one covering his combat deployment to Afghanistan (December 2012 to August 2013), and a second covering service in the State of Hawaii (January 2014 to September 2014).<sup>1</sup> The Bonus Division denied both bonuses in light of the Army's characterization of his service at the time of his discharge. He appeals, claiming that under Army and U.S. Department of Defense regulations, his service during his first term of enlistment was honorable and the Army's adverse characterization only applies to his second enlistment. We disagree, and affirm the decision of the Bonus Division.

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<sup>1</sup> Machado applied for a Welcome Home Bonus for his 2014 service in Hawaii, but he appears to have abandoned that claim on appeal. This service in Hawaii indisputably took place during Machado's second enlistment, which the Army incontestably characterized as other-than-honorable. In place of the 2014 bonus claim, he adds a new period of service from his first enlistment, *i.e.*, his 2011-2012 service in Fort Bliss, Texas and Fort Benning, Georgia. Although Machado did not include this period of service in his original application to the Bonus Division, the record is sufficient for us to decide the question of his eligibility without requiring additional evidence and without the need for a remand to the Bonus Division.

## FACTS

At a hearing held on March 8, 2017, the Bonus Division and Machado, through counsel, submitted numerous exhibits. Machado also offered his own testimony and the testimony of John D. Fitzpatrick, an expert witness, on his behalf. After careful consideration of all the evidence and the parties' submissions, the Board makes the following findings of fact:

1. Machado was born in Massachusetts and has, at all relevant times, been a resident of Massachusetts. (T. 18-19)

2. Machado enlisted in the U.S. Army in March 2011. He completed basic training and advanced infantry training at Fort Benning, GA, and was subsequently transferred to a unit in Fort Bliss, TX. He then deployed to Zhari province, Kandahar, Afghanistan from December 18, 2012 to August 23, 2013. (Ex. Q, T. 21) In order to deploy to Afghanistan, Machado elected to extend his Army enlistment. (T. 21-23) While in Afghanistan, Machado re-enlisted to a second term of enlistment. (T. 22-23)

3. Following his return from deployment, Machado was transferred to a unit based at the Schofield Barracks, HI. (Ex. M) At some point during his service in Hawaii in 2014, Machado experienced marital issues and experienced serious difficulties adjusting to post-combat life. (T. 26-30) From his testimony at the hearing, the board discerns that Machado was charged with a domestic violence-related violation of military regulations. (T. 29) His DD-214 reflects that in lieu of trial by court-martial, Machado accepted a discharge from the Army under other-than-honorable conditions. (Ex. A) He was reduced to the lowest enlisted grade. (*Id.*; *see also* Ex. G)

4. At the time of his discharge, the Army issued Machado a Certificate of Release or Discharge from Active Duty ("DD-214"), which on its face covers the period of service from March 7, 2011 (the date of Machado's first enlistment) to September 12, 2014 (the date of his discharge). (Ex. A) Machado submitted a copy of this form with his application to the Bonus Division, and has submitted another copy to us as part of his appeal. (*Id.*) The DD-214 reflects that his service was characterized "under other than honorable conditions." (*Id.*)

5. Following his discharge from the Army, Machado received medical treatment for major depressive disorder and post-traumatic stress disorder related to his military service and deployment. (Ex. H) The U.S. Department of Veterans Affairs granted his application for disability benefits, finding that Machado was "insane" at the time of the events that led to his other-than-honorable discharge. (Ex. I, J)

### **DISCUSSION**

Chapter 130 of the Acts of 2005 provides that:

[T]here shall be allowed and paid out of the treasury of the commonwealth without appropriation to each person, who shall have served in the armed forces of the United States in active service as part of Operation Enduring Freedom, Operation Iraqi Freedom, or Operation Noble Eagle who was discharged or released under honorable conditions from such service, the sums specified in this section. . .

(1) \$1,000 to each such veteran who performed active service outside the continental limits of the United States in the Afghanistan or Iraq area as those areas are described by proper federal authority.

(2) \$500 to each such veteran who performed active duty within the continental limits of the United States or outside the continental limits of the United States other than in the Afghanistan or Iraq areas for a period of 6 months or more.

To receive a Welcome Home Bonus, the statute requires that a veteran<sup>2</sup> demonstrate service “under honorable conditions.” *Id.* A veteran typically establishes this fact by producing a copy of his or her DD-214. According to the U.S. Department of Defense, the DD-214 form is “the authoritative source of information required for the administration of State and Federal laws applicable to personnel who have been discharged, released, or transferred to a Reserve Component while on active duty.” Department of Defense Instruction (“DoDINST”) 1336.01, par. 3(f), *available at* <http://www.dtic.mil/whs/directives/corres/pdf/133601p.pdf>. The DD-214 is intended to be “an accurate and complete summation of active military personnel service.” *Id.* at par. 3(a).

Machado does not contest that his DD-214 contains an “other than honorable” characterization. Instead, he claims that characterization only applies to his second enlistment, not his first, during which he served state-side and in Afghanistan. In support of this argument, he cites Army regulations which provide that when a soldier ends one term of enlistment and re-enlists to a subsequent term, the military administratively provides an honorable discharge from the first term of enlistment immediately before re-enlisting the soldier to the subsequent term of service. *See* DoDINST 1332.14 at Encl. 3, § 2(a)(4); Army Reg. 635-200 at par. 16-3. He then points to other regulations which provide that the military’s “characterization [of service at the time of discharge is] determined solely by the enlisted Service member’s military record during the current enlistment or period of service to which the separation pertains.” *See* DoDINST 1332.14 at Encl. 4, par. 3; *see also* Army Reg. 635-200, para. 1-1. Machado reads these

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<sup>2</sup> Although not a factor in our decision, we pause to note that under G.L. c. 4, 7, forty-third, Machado does not meet the definition of a “veteran” under Massachusetts statute. Subject to qualifications not relevant here, a “veteran” must be a person “whose last discharge or release from his wartime service . . . was under honorable conditions.”

regulations together as establishing that his first enlistment was characterized as honorable, and consequently, that he should receive Welcome Home Bonuses for both his state-side service at Fort Benning and Fort Bliss and his tour of duty in Afghanistan that took place during that enlistment.

We are not persuaded. Machado's DD-214, which he submitted with his Welcome Home Bonus application, explicitly covers his entire period of active duty service. *See* Ex. A at Block 12 ("Record of Service"). The very regulation Machado cites confirms that the characterization of service applies to either "the current enlistment or period of service to which the separation pertains." DoDINST 1332.14 at Encl. 4, par. 3 (emphasis added); *see also* Army Reg. 635-200, para. 1-1. And the "period of service to which the separation pertains" is clearly listed in the "Record of Service" section of Machado's DD-214 form as covering the period of March 7, 2011 to September 12, 2014. Consequently, we conclude, on the face of the DD-214, that the Army characterized the Machado's entire active service—both terms of enlistment—as "other than honorable." This characterization of service supersedes any earlier characterization which the service may have made when Machado re-enlisted for a second term of enlistment, and it applies to what might have been considered honorable service before his discharge from military service.

Our reading of the DD-214 as applying to Machado's entire period of active military service is supported by the fact that the characterization printed on the DD-214 contains no limiting words, such that it would only apply to the second enlistment but not the first. As noted, the dates on the form cover both enlistments. Furthermore, Machado's DD-214 includes remarks and annotations of awards he earned during his first enlistment, including his Afghanistan deployment. If the DD-214 only reflected service during his second enlistment, as Machado claims, none of that information from his first enlistment would be present on the form. The fact

that this information *is* present supports our conclusion that Machado's DD-214 was intended to be, and is, a complete record of both enlistments. Finally, our understanding is also consistent with the Department of Defense's statements, in its regulations, that the DD-214 is "an accurate and complete summation of active military personnel service" and serves as "the authoritative source of information required for the administration of State and Federal laws." DoDINST 1336.01 at par. 3(a); *id.* at par. 3(f). For these reasons, the Bonus Division properly relied on the characterization of service printed on Machado's DD-214, which he submitted with his Welcome Home Bonus application.

At the hearing before the Board, Machado offered several documents from his military file, two letters of recommendation from fellow soldiers, his own testimony, and the testimony of an expert witness, in support of his claim that his service during the first enlistment was honorable. We have carefully reviewed and considered these submissions. We cannot, however, ignore a military service's characterization of service. Where a DD-214 is available for a period of service, as it is here, the military's characterization of service applies to that entire period, and is dispositive for purposes of Bonus Division decisions.

The above notwithstanding, Machado points out, correctly, that the Bonus Division often considers evidence other than a DD-214 when an active duty military member applies for a Welcome Home Bonus but has not received a DD-214 from his/her service. But this case is not anything like those in which a service member is still on active duty, has not been discharged, and thus has not yet received a DD-214 from the military service. In those cases, where the service has not characterized an applicant's service and there is no reason to believe the applicant's service is not honorable, the Bonus Division has the discretion to accept other forms of official documentation in lieu of a DD-214. *See Dunn v. Comm'r of Civ. Serv.*, 281 Mass. 376,


380 (1933) (in the absence of other evidence, it is appropriate to presume that a person's military service was honorable). Machado, on the other hand, was discharged in 2014, and received a DD-214 characterizing his service as other than honorable. As the Bonus Division noted at hearing, Machado may petition the service for a re-characterization, and if successful, may re-apply for a bonus.


The decision of the Bonus Division is **AFFIRMED**. If Machado wishes to appeal this decision, he may file a complaint in the Superior Court for the county in which he lives, or in Suffolk County, within thirty (30) days of receiving this decision. *See* G.L. c. 30A, § 14.

VETERANS' BONUS APPEAL BOARD

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Dated: March 30, 2017