

COMMONWEALTH OF MASSACHUSETTS
VETERANS' BONUS APPEAL BOARD

2019-VB-03

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IN RE: JOSEPH W. VEZINA)
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_____)

MEMORANDUM OF DECISION

The appellant, Joseph W. Vezina, applied for a Welcome Home Bonus in April 2017. The Bonus Division denied his bonus application because “[d]ocumentation was not provided showing that [he was] domicile[d] in the Commonwealth of Massachusetts for a period of not less than 6 months before the time of [his] entry into the [military].” Ex. 3. Vezina has appealed to this Board, and an evidentiary hearing was held on May 7, 2019. After review of the various exhibits submitted by the parties, Vezina’s testimony under oath, and consideration of the arguments advanced by both Vezina and the Bonus Division, Vezina’s bonus application is hereby **GRANTED**.

We refer to the version of the law which was in effect on the date Vezina submitted his bonus application to the Treasurer. *See* Stat. 2005, c. 130, § 16, *as amended through* Stat. 2011, c. 171, § 3.¹ The law then in effect provided, in pertinent part, as follows:

Upon application, as provided in this section, there 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; *if the domicile of every person on*

¹ In November 2018, the Legislature codified the 2005 session law, as amended, into statute, *see* G.L. 10, § 78(b)(1). Save for minor non-substantive differences, the relevant text of § 78 statute is identical to the 2005 version we refer to here. Thus, the Board’s analysis in this decision would hold true under either version of the statute.

account of whose service the application is filed, shall have been in the commonwealth for a period of not less than 6 months before the time of the person's entry into the service.

[. . .]

Applications hereunder shall be filed with the state treasurer, upon forms to be furnished by him. The state treasurer may accept the written statement of the clerk of a city or town that a person claiming pay or on whose account pay is claimed by a dependent or heir-at-law, under the provisions of this act, was domiciled therein on the first day of January, in any year, as prima facie evidence of the fact of such domicile, and he may accept such other evidence of domicile as he may consider adequate or necessary. The clerks of the several cities and towns shall, at the request of the state treasurer, forthwith furnish such information relative to such domicile as their records may disclose. *The state treasurer may require and accept such additional evidence as he may consider necessary to establish the fact of domicile within the commonwealth as provided under section 1.* The adjutant general shall certify to the state treasurer the dates of service and any other military information necessary to carry out the provisions of this act. The state treasurer shall furnish to the adjutant general a copy of Form DD-214 or equivalent documentation as determined by the adjutant general for the permanent records of the military division of the commonwealth. . . .

(emphases added). The issue presented for resolution is whether Vezina was “domicile[d]” in Massachusetts “for a period of not less than 6 months before the time of [his] entry into the service.” § 16.

The statute does not define the word “domicile,” so the Board gives the word its commonly-understood meaning. According to the Massachusetts Supreme Judicial Court, a person’s domicile is “the place of one’s actual residence with intention to remain permanently or for an indefinite time and without any certain purpose to return to a former place of abode.” *Rummel v. Peters*, 314 Mass. 504, 512 (1943) (quoting *Tuelle v. Flint*, 283 Mass. 106, 109 (1933)). “A domicil[e] once established continues until a new one is acquired regardless of changes in temporary sojourn. Mere absences from home even for somewhat prolonged periods do not work a change of domicil[e].” *Tuelle*, 283 Mass. at 109.

The SJC has also emphasized that a person's *domicile* and *residence* are two different concepts, which many times do not overlap. "A person may have a residence in one place for various reasons comparatively temporary in nature such as performing the duties of an office, transacting a business, seeking improvement in health, pursuing pleasure or visiting relatives, and yet have his permanent home or domicil[e] in a different place." *Id.* Thus, as applicable here, the mere fact that a veteran did not actually *reside* in Massachusetts immediately before joining the military is not, by itself, dispositive of the pertinent question of the veteran's *domicile*. The Welcome Home bonus law uses the word "domicile," not "residence."

In the context of Welcome Home bonus applications, a veteran typically establishes a Massachusetts domicile by presenting "the written statement of the clerk of a city or town." § 16. However, in cases where a veteran does *not* provide such a statement from a municipal clerk, it is the *veteran's* obligation to establish, through other evidence, that he or she was domiciled in Massachusetts for at least six months prior to entering the military, as required by the statute. Vezina did not provide that evidence in his original bonus application, but he did provide it while credibly testifying, under oath, at his appeal hearing. Vezina testified that he was born in Massachusetts, that he spent a substantial portion of his adolescence here, that he graduated from high school here, and that he took college classes here. This, in our opinion, sufficiently established his domicile in Massachusetts as of that time.² (Transcript pages 16-19.) Vezina then testified that he went "back and forth" to Barbados—where his grandmother lived and his family maintained a business—but that when he did so, he "always" had the intent to return to Massachusetts. Massachusetts was, Vezina said, the place he called "home." (*Id.*) Subsequently,

² We do not have the authority to determine, and we do not attempt to determine, Vezina's domicile for any purpose other than his eligibility for a Welcome Home Bonus.

when Vezina traveled from Barbados to his family's second home in Florida, he did so for the sole purpose of enlisting into the military, not for the purpose of relocating there on a permanent basis. Vezina testified that he always intended to return to Massachusetts after his military service ended, and in fact, that is exactly what he did. (*Id.* at 18-23.) The Board finds that Vezina always had an intent to return to Massachusetts during these temporary, albeit extended, trips away from home; thus, Vezina did not establish a new domicile in either Barbados or Florida. This means that he remained domiciled in Massachusetts throughout the period immediately preceding his entry into the military.

The Board finds Vezina's testimony to be credible, and we conclude, based on that testimony, that Vezina meets the Welcome Home bonus law's domicile requirement, because he maintained a Massachusetts domicile for at least six months immediately preceding his entry into military service. *See Rummel*, 314 Mass. at 512; *Tuelle*, 283 Mass. at 109. Furthermore, the Bonus Division agrees (and Vezina's DD-214 form reflects) that Vezina served honorably, and his two bonus claims—both for deployments to Iraq in support of Operation Iraqi Freedom—fall within the period of that honorable service. Therefore, because Vezina meets all of the statutory requirements for the Welcome Home bonus, his application is hereby **GRANTED**.

VETERANS' BONUS APPEAL BOARD

By:



LTC SHANNON MCLAUGHLIN, MANG
Adjutant General's Designee



CRYSTAL MATTHEWS
Treasurer's Designee



MATTHEW P. LANDRY
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Dated: June 18, 2019