

COMMONWEALTH OF MASSACHUSETTS
VETERANS' BONUS APPEAL BOARD

2017-VB-05

IN RE: WASHINGTON SANTOS

MEMORANDUM OF DECISION

The appellant, Washington Santos, served on active duty in the U.S. Army from September 2004 to February 2012, when he was discharged under other than honorable conditions. He subsequently applied to the Commonwealth's Veterans' Bonus Division ("Bonus Division") for four Welcome Home Bonuses, two covering combat deployments to Afghanistan (2008 and 2009), and two other overseas deployments in Qatar (2005) and Korea (2009).¹ The Bonus Division denied all four bonuses in light of the Army's unfavorable final characterization of Santos's service at the time of his discharge. He appeals the denial of two of those bonuses,² claiming that under Army and U.S. Department of Defense regulations, his service during his first and second terms of enlistment were honorable and the Army's adverse characterization only applies to his final enlistment. We disagree, and affirm the decision of the Bonus Division.

¹ Santos's counsel represents that his DD-214 correctly lists his first Afghanistan deployment as taking place between February 28, 2008 and May 5, 2008, not the dates Santos inaccurately listed in his original application (December 21, 2005 through February 28, 2008).

² Santos is appealing the denial of bonuses that stem from his deployment to Qatar, which took place from June 26, 2005 through December 21, 2005, and his state-side service at Fort Lewis, WA, which took place from December 21, 2005 through February 28, 2008. Santos does not appeal the denial of two additional bonuses that arise from service that took place during his third/final enlistment.

FACTS

At a hearing held on January 8, 2018, the Bonus Division and Santos, through counsel, submitted numerous exhibits. Santos also offered his own testimony. After careful consideration of the 15 exhibits offered, Santos's testimony, and the parties' pre- and post-hearing memoranda of law, we make the following findings of fact:

1. Santos lived in Massachusetts for more than six months prior to enlisting in the armed forces. (Exhibit 9, Certificate of Residency endorsed by Maureen F. DiPierro)
2. Santos enlisted in the U.S. Army in September 2004, and re-enlisted twice in 2007. (Exhibit 1) During his first enlistment, he served approximately six months in Qatar, with the balance of that time being served at Fort Lewis, Washington.³ (*Id.*; Santos Post-Hearing Br. at 4)
3. Santos was discharged from the Army on February 10, 2012. (Exhibit 1, DD-214)
4. At the time of his discharge, the Army issued Santos a Certificate of Release or Discharge from Active Duty ("DD-214"), which covers the period of service from September 15, 2004 (the date of Santos's first enlistment) to February 10, 2012 (the date of his discharge). (*Id.*) Santos submitted a copy of this form with his application to the Bonus Division. (*Id.*) The DD-214 reflects that his service was characterized "under other than honorable conditions." (*Id.*)

DISCUSSION

Chapter 130 of the Acts of 2005⁴ ("Welcome Home Bonus Statute") provides that:

[T]here shall be paid 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. . .

³ Santos's bonus application omits to include his state-side service. We accept the representation contained in his post-hearing brief that he served in Fort Lewis, WA, for the balance of his first enlistment.

⁴ As amended by Chapter 167 of the Acts of 2005.

(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 bonus, the Welcome Home Bonus Statute requires that a veteran 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 form is intended to be “an accurate and complete summation of active military personnel service.” *Id.* at par. 3(a). That is why we have previously recognized that, at least in cases where a military service has issued a DD-214, the characterization of service printed on that form is dispositive for purposes of the Welcome Home Bonus. *In re Machado*, 2017-VB-002 (2017), available at <https://www.mass.gov/service-details/previous-appeal-decisions-for-veterans-bonuses>.

In connection with his bonus application, Santos submitted a copy of his DD-214. However, it reflects that he received an “other than honorable” characterization. Santos claims that this characterization only applies to his third/final enlistment, not his first two enlistments. On that basis, he claims it was incorrect to deny him two bonuses stemming from service he rendered prior to his final enlistment. In support of this claim, Santos cites U.S. Department of Defense and Army regulations which provide that when a soldier ends one term of enlistment and re-enlists to a subsequent term, the service provides an honorable discharge from the first

term of enlistment immediately before re-enlisting the soldier to a subsequent term of service. See DoDINST 1332.14 at Encl. 3; Army Reg. 635-200 at par. 16-3. He then argues that he should be granted bonuses for any deployments/service during his first two enlistments, because those were originally characterized as “honorable” by the Army. Rejecting these arguments, we affirm the Bonus Division’s denial of the two bonus claims which pertain to service that took place prior to Santos’s final enlistment, *i.e.*, his deployment to Qatar and his state-side service in Fort Lewis, WA. As we have said in two prior appeals, the Army’s characterization of service shown on the service member’s DD-214 applies to whatever period of service is printed in the “Record of Service” section of that form, and that characterization supersedes any prior characterizations received during that service. *In re Espinosa*, 2017-VB-001 (2017), available at <https://www.mass.gov/service-details/previous-appeal-decisions-for-veterans-bonuses> (military’s characterization of service applies to either “the current enlistment or period of service to which the separation pertains”) (emphasis added) (quoting DoDINST 1332.14 at Encl. 4, par. 3 and Army Reg. 635-200, para. 1-1); *Machado*, 2017-VB-002 (same). Here, in Santos’s case, the “period of service to which the separation pertains” is listed in the “Record of Service” section of his DD-214 form, and covers the period of September 2004 to February 2012, encompassing all three of Santos’s enlistments. Thus, because all of Santos’s service was characterized as other than honorable, not just his final enlistment, the Bonus Division correctly denied his bonus claim.


The decision of the Bonus Division is **AFFIRMED**. If Santos 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

By:


ANTHONY SCIARAFFA
Adjutant General's Designee


GREGORY M. POLIN
Treasurer's Designee


MATTHEW P. LANDRY
Attorney General's Designee

Dated: March 30, 2018