



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

DJC  
Docket No. NR6175-14  
9 Dec 14

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO  
[REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments  
(2) OCNO memo 7220 Ser N130C/14U1189 dtd 10 Sep 14  
(3) Certificate of Live Birth issued 6 Jun 13  
(4) Dependency Application/Record of Emergency Data dtd  
29 Feb 12  
(5) Dependency Application/Record of Emergency Data dtd  
16 Apr 12 [REDACTED]  
(6) Dependency Application/Record of Emergency Data dtd  
18 Mar 14  
(7) DEERS printout  
(8) Order of Child Support No: 11-5-00103-1 dtd 4 Oct 12  
(9) Dependency application/Record of emergency data dtd  
6 Jun 13  
(10) DEERS printout  
(11) [REDACTED], Certificate of Release or  
Discharge from Active Duty effective 17 May 13

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show entitlement to Basic Allowance for Housing Differential (BAH-DIFF), and Basic Allowance for Housing (BAH) with dependents.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 8 December 2014 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. On 23 August 2010, [REDACTED] was born to [REDACTED]. See enclosure (3).

c. On 10 December 2011, Petitioner married [REDACTED]. See enclosures (4), and (5).

d. On 28 March 2012, [REDACTED] was born to [REDACTED]. See enclosures (6) and (7).

e. Petitioner was court ordered to pay child support payments on 4 October 2012, with an effective 1 September 2010. See enclosure (8).

f. Petitioner got divorced on 21 November 2012. See enclosure (9).

g. [REDACTED] (former spouse) was released from active service on 17 May 2013. See enclosure (11).

h. Petitioner adopted [REDACTED] on 1 May 2013. See enclosure (2).

i. On 6 February 2014, [REDACTED] was born to [REDACTED]. See enclosures (6) and (10).

k. Per enclosure (2), the Office of the Chief of Naval Operations provided an advisory opinion concluding that the evidence submitted by Petitioner is insufficient to support the requested record change. The advisory opinion, states that BAH-DIFF is not payable from 1 September 2010 to 30 September 2012 because payment of a housing allowance based solely on child support is based on the date the Petitioner began paying child support, not necessarily the date the dependent was acquired. Furthermore, Petitioner's court ordered back pay of child support payments recognizes that he acquired a dependent on 1 September 2010 but he did not begin child support payments until 1 October 2012. Moreover, Petitioner was married at the time he begin child support payments and his spouse was receiving the with-dependent housing allowance on behalf of all their dependents.

#### CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2) and the fact that the Petitioner received from the court a principal judgment amount of \$11,359 of back support payments for the period since he acquired the child in August 2010 through 30 September 2012, the Board finds the existence of an injustice warranting corrective action.

RECOMMENDATION:

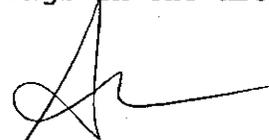
That Petitioner's naval record be corrected, where appropriate, to show that:

a. Petitioner executed a BAH request via NAVPERS 1070/602 for his child, [REDACTED], which was received by cognizant authority and became effective 23 August 2010. Petitioner is authorized Basic Allowance for Housing Differential (BAH-DIFF) from 23 August 2010 to 31 March 2011. Note: Petitioner is not authorized BAH-DIFF if the child support payment is less than the Petitioner's applicable pay grade BAH-DIFF amount.

b. Petitioner is authorized Basic Allowance for Housing (BAH) with dependents at the [REDACTED] rate from 1 April 2011 to 27 March 2012. Note: [REDACTED] (former spouse) begin to receive BAH with dependents on 28 March 2012 when their son was born.

c. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.



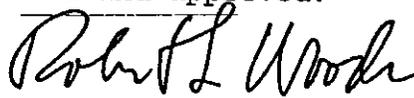
BARBARA A. NAHULAK  
Recorder

5. The foregoing action of the Board is submitted for your review and action.



ROBERT J. O'NEILL  
Executive Director

Reviewed and approved.

 3/17/15

~~Reviewed and disapproved.~~

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