



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

█
Docket No: 8469-20
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER █, █,
USN, █

Ref: (a) 10 U.S.C. §1552
(b) MILPERSMAN 1050-340 of 25 Jan 13
(c) The Joint Travel Regulations (JTR) 2018

Encl: (1) DD Form 149
(2) DD Form 4/1 of 10 Feb 98
(3) NAVPERS 1070/602 printed 8 Sep 21
(4) BUPERS order: 2055 of 24 Jul 15
(5) History of Assignments
(6) Member Data Summary
(7) General Court-Martial order no. 01-19 of 7 Mar 19
(8) NAVPERS 1616/26 of 25 Nov 19
(9) Petitioner email of 31 Mar 20
(10) BUPERS order: 0780 of 18 Mar 20
(11) Petitioner email of 14 Oct 20
(12) PERS 451 email of 2 Dec 2020
(13) Advisory Opinion by NPC memo 5730 PERS-45/001 of 6 Jan 21
(14) COMNAVSUPSYSCOM email of 8 Sep 21
(15) Petitioner Rebuttal ltr of 29 Sep 21

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board) requesting to correct Petitioner's address for household goods (HHG) move to █ instead of █.

2. The Board reviewed Petitioner's allegations of error and injustice on 7 October 2021, 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, relevant portions of her naval service 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:

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED],
USN, [REDACTED]

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 10 February 1998, Petitioner enlisted for 8 years in the U.S. Naval Reserve. On 6 April 1998, Petitioner entered active duty for 4 years with a home of record (HOR) of [REDACTED]. See enclosure (2).

c. In accordance with reference (b), if mandatory appellate leave is directed, counsel member regarding shipment of personal property and or HHG. Eligible members must submit a written request to the General Court Martial Convening Authority (GCMA) or Special Court Martial Convening Authority (SCMA) for approval per NAVSO P-6034, Joint Federal Travel Regulations, Volume I. Property should not be transferred to a Navy storage facility. For members stationed outside Continental United States (OCONUS), family members' travel and HHG shipment will be authorized or approved to the HOR when the GCMA determines such to be in the best interest of the Government.

d. On 14 November 2002, Petitioner got married. Petitioner has two children born in 2006 and 2010. See enclosure (3).

e. On 24 July 2015, Petitioner was issued official change duty orders (BUPERS order: 2055) while stationed in [REDACTED], with an effective date of departure of December 2015. Petitioner's ultimate activity was [REDACTED] for duty with an effective date of arrival of January 2016. See enclosure (4).

f. On 10 December 2015, Petitioner transferred from [REDACTED] [REDACTED]. On 6 January 2016, Petitioner arrived to [REDACTED] for temporary duty. See enclosure (5).

g. In accordance with reference (c), circumstances allowing HHG transportation when disciplinary action is taken. If the Service member is convicted by a court-martial and placed on leave involuntarily while awaiting completion of appellate review, then the officer exercising special or general court-martial jurisdiction over the Service member may authorize or approve HHG transportation when it is in the Government's best interest. HHG transportation is limited to the authorized weight allowance of the grade held at the time the HHG is transported or when ordered to duty Outside the Continental United States (OCONUS), whichever is greater. The Authorizing/Order-Issuing Official or Approving Official (AO) must determine the destination to which transportation is authorized and must ensure that a reasonable relationship exists between that destination and the conditions and circumstances.

The Government's cost for HHG transportation, whether the Service member has dependents or not, is limited to the cost of transportation from the Service member's last or former Permanent Duty Station (PDS) OCONUS to the HOR or Place from Which Entered (or Called) to Active Duty (PLEAD), as the Service member selects. When HHG is transported under this provision, it is the final separation of HHG transportation unless the Service member is restored to duty.

Subj: REVIEW OF NAVAL RECORD OF FORMER ██████████, USN, ██████████

h. On 13 December 2018, Petitioner was reduced to Petty Officer First Class/E-6. See enclosure (6).

i. On 7 March 2019, General Court-Martial order no. ██████████ was published. Petitioner was arraigned on 20 August 2018 at ██████████, at a General Court-Martial convened by Commander, ██████████, General Court-Martial Convening Order ██████████ dated 16 January 2018. Petitioner entered pleas on 26 November 2018 on the following offenses, and the following findings or other dispositions were reached on 29 November 2018. Petitioner pled not guilty to 2 specifications of violation of the Uniform Code of Military Justice (UCMJ), Article 80. Petitioner was found guilty and sentenced on 29 November 2018 to be reduced to the grade of E-6 and to be discharged from the service with a Dishonorable Discharge. The sentence was approved and, except for that part of the sentence extending to the Dishonorable Discharge, ordered executed. See enclosure (7).

j. On 25 November 2019, Petitioner signed his Evaluation Report and Counseling Record (E1-E6) for the period of 30 November 2018 to 15 November 2019. Petitioner received significant problems under promotion recommendation and was not recommended for retention. See enclosure (8).

k. On 31 March 2020, Petitioner requested Navy and Marine Corps Appellate Leave Activity (NAMALA) that he needed their help with defense personal property system (DPS). He was trying to file a new move. He asked if he was stuck with order number, date, and headquarters issuing. He asked for guidance so he could fill his new move. ██████████ responded that the info can be found on Petitioner's orders (BUPERS order: 0780). See enclosure (9).

l. On 18 March 2020, Petitioner was issued official BUPERS order: 0780 while stationed in ██████████, with an effective date of departure of March 2020. Petitioner's ultimate activity was ██████████ for Appellate Review and final separation authorization in accordance with 63 Comptroller General 135. Petitioner was authorized to travel to ██████████. Furthermore, if member has dependents or HHG/private owned vehicle (POV), permanent change of station (PCS) allowances are in accordance with Comptroller General Decision and Joint Travel Regulations. See enclosure (10).

m. On 17 June 2020, Petitioner was administratively attached to BUPERS NAV AP LV for temporary duty. On 13 October 2020, Petitioner was discharged. See enclosure (5).

n. On 14 October 2020, Petitioner notified ██████████ that the ██████████ address was in the order instead of ██████████. Petitioner was told by ██████████ that they will submit an orders modification to PERS. Petitioner wanted to make sure his orders were still good. He scheduled the end of December for HHG and first week of Jan for POV. Petitioner asked if his orders were modified to reflect his address in ██████████. ██████████ responded that they requested an orders modification from PERS 451h, and would let Petitioner know once they hear anything. Petitioner's appellate review was complete, and they will be issuing Petitioner's DD Form 214 soon. See enclosure (11).

Subj: REVIEW OF NAVAL RECORD OF FORMER ██████████, USN, ██████████

o. On 2 December 2020, Petitioner submitted his 1306 to PERS-451 via email. Petitioner had scheduled his move for 29 December 2020 and requested expeditious processing. Pers-451 responded via email to Petitioner that his request was disapproved. They stated that his appellate leave request listed ██████████ as his desired location and orders were processed accordingly. Furthermore, Petitioner was only authorized one move to the convening authority (CA) approved appellate leave address while executing his PCS orders to ██████████. PERS-451 told Petitioner that the appropriate avenue to pursue his request would be to petition the BCNR. See enclosure (12).

p. On 6 January 2021, the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request has no merit and warrants no favorable action. Petitioner executed his orders on 23 March 2020 and was gained to ██████████ on 17 June 2020 with entitlements according to selection of Appellate Leave location. Petitioner requested an ORDMOD in mid-October, following his unsuccessful appeal and subsequent discharge. PERS-451 cannot modify BUPERS Orders 0780 to gain additional entitlements to move HHGs. Petitioner was no longer in Naval Service, any additional HHG authorizations must come from BCNR. Recommend the board deny Petitioner's request. See enclosure (13).

q. On 8 September 2021, COMNAVSUPSYSCOM notified BCNR that for orders 0780, there was a move set up from ██████████ to ██████████ in December 2020, but it was cancelled, and have not seen any completed moves since his move to ██████████ in 2016. See enclosure (14).

r. On 29 September 2021, Petitioner submitted a rebuttal to the advisory opinion. He stated there was no physical transfer from his then current station to ██████████. Order 0780 stated that Petitioner was allowed to transfer his HHG/POV the same manner as members were to PCS. Order 0780 stated that Petitioner was authorized to travel to ██████████. This was erroneous because ██████████ was the address in which he was currently residing during that time. Petitioner contacted ██████████ for support prior October for ORDMOD (order modification) due to the erroneous address and was told to submit a 1306 to PERS. PERS disapproved his request. Petitioner was denied to use order 0780 line of accounting to move his HHG to ██████████ (home of record) because of the address error indicated in the order. Zero amounts were spent from order 0780 line of accounting. See enclosure (15).

CONCLUSION

Upon review and consideration of all the evidence of record, and notwithstanding the opinion expressed in enclosure (13), the Board finds the existence of an injustice warranting partial corrective action. The Board, in its review of Petitioner's entire record and application, carefully considered the policy guidance of references (b) and (c). The Board determined per reference (b), Petitioner's official military personnel files (OMPF) did not contain the required HHG counseling for Sailors assigned to mandatory appellate leave, which also authorizes for members stationed outside CONUS, family members' travel and HHG shipment will be authorized or approved to the HOR when the GCMA determines such to be in the best interest of the Government. The Board also concluded per reference (c), upon discharge or release, if a Service

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED],
USN, [REDACTED]

member has not been confined, then he or she is authorized to travel to either his or her HOR or PLEAD. Therefore, the Board concluded Petitioner should be granted orders modification for an HHG move to HOR vice requested address.

RECOMMENDATION

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

After 29 November 2018 GCM sentencing, Petitioner requested transportation and HHG shipment authorization from residence in [REDACTED] to address in [REDACTED] and was granted authorization not to exceed (NTE) movement to HOR ([REDACTED]).

Petitioner's official BUPERS order: 0780 listed member is authorized to travel to "HOR ([REDACTED])" vice "[REDACTED]."

Note: Petitioner will submit a copy of the Board's approval letter to the Navy Household Goods Audit Team with all appropriate HHG documentation and orders to settle his claim. Settlement of move charged against Petitioner's BUPERS Order 0780.

That a copy of this report of proceedings 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 a 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.

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

11/17//2021

[REDACTED]

Subj: REVIEW OF NAVAL RECORD OF FORMER MBR [REDACTED]
USN, XXX-XX-[REDACTED]

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Petitioner's Request (Grant Relief)

Reviewed and Approved Board Recommendation (Partial Relief)

Reviewed and Approved Advisory Opinion Recommendation (Deny Relief)

12/8/2021

X [REDACTED]

[REDACTED]
Assistant General Counsel (M&RA)

Signed by: [REDACTED]