



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

██████████
Docket No. 359-23
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R FMR Volume 7A, Chapter 68

Encl: (1) DD Form 149 w/attachments
(2) Subject's naval record

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 that his naval record be corrected to show Petitioner's Outside the Continental United States (OCONUS) Cost of Living Allowance (COLA) reflects "2" dependents vice "1" from 24 September 2018 to 28 February 2022.

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 2 February 2023 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 Petitioner's naval record, and applicable statutes, regulations, and policies.

3. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. On 15 July 2015 Petitioner was issued official modification to change duty orders (BUPERS order: 0555) while stationed in ██████████, ██████████ with an effective date of departure of March 2015. Petitioner's intermediate (1) activity was ██████████, ██████████ for temporary duty under instruction with an effective date of arrival of 4 April 2015. Petitioner's ultimate activity was ██████████, ██████████, ██████████ for duty with an effective date of arrival of 14 September 2015, with a Projected Rotation Date (PRD) of September 2018, and transferred from ██████████ on 25 August 2015, and arrived to ██████████ ██████████ on 11 September 2015 for duty.

b. On 22 October 2016 Petitioner's child (██████████) of Petitioner's future spouse (██████████) was born in ██████████, ██████████, ██████████. Furthermore, the child's birth certificate does not list father.

c. On 14 August 2018 ██████████ issued Petitioner an itinerary for ██████████ for travel on 24 August 2018 from ██████████, ██████████ to ██████████, ██████████.

d. On 24 September 2018 Petitioner married ██████████ in ██████████, ██████████.

e. On 16 November 2018 Petitioner's OCONUS COLA with 1 dependent for ██████████ (██████████) effective 16 November 2018 was started.

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

f. On 7 January 2019 Petitioner's step child ([REDACTED]) received medical treatment at [REDACTED], [REDACTED], [REDACTED].

g. On 30 April 2019 Petitioner signed a Dependency Application/Record of Emergency Data (NAVPERS 1070/602) listing his spouse living in [REDACTED], [REDACTED]—child is not listed.

h. On 16 August 2021 Petitioner was issued official change duty orders (BUPERS order: 2281) while stationed in [REDACTED], [REDACTED] with an effective date of departure of December 2021. Petitioner's ultimate activity was [REDACTED], [REDACTED], [REDACTED] for duty with an effective date of arrival of 15 January 2022, with a PRD of January 2025.

i. On 1 March 2022 Petitioner's OCONUS COLA with 2 dependents for [REDACTED] ([REDACTED]) was started.

j. On 1 March 2022 Petitioner was transferred from [REDACTED], and arrived to [REDACTED] [REDACTED] on 2 April 2022 for temporary duty, and on 29 April 2022 Petitioner was transferred from [REDACTED] [REDACTED], and arrived to [REDACTED] [REDACTED] on 15 May 2022 for duty.

k. On 16 May 2022 Petitioner signed a Record of Emergency Data (DD Form 93) listing his spouse and child living at [REDACTED], [REDACTED].

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following partial corrective action. The Board concluded that in accordance with reference (b),¹ a service member is considered with dependent if any of the following criteria apply: The service member is joined by a dependent or acquires a dependent while serving OCONUS and the dependent is command sponsored and residing with a service member at an OCONUS location at which an "accompanied by dependents" tour is authorized, the service member is authorized to serve that tour, and the dependents are authorized by the appropriate authority to be at the service member's Permanent Duty Station (PDS). Petitioner's future spouse joined him in Hawaii and they married on 24 September 2018. The travel itinerary provided shows the flight information for his spouse only, however, Petitioner's stepchild was treated at [REDACTED], [REDACTED], [REDACTED] on 7 January 2019, showing that he was in [REDACTED] as well. The Board determined that there is evidence that both Petitioner's spouse and child were in the location of the PDS, the date that the command authorized Petitioner to receive OCONUS COLA with 1 dependent is the date that Petitioner's dependents were authorized by the appropriate authority to be at the Petitioner's PDS. Therefore, Petitioner is authorized OCONUS COLA with "2" dependent vice "1" dependent for [REDACTED] [REDACTED] ([REDACTED]) from 16 November 2018 to 28 February 2022.

¹ Reference (b), OCONUS COLA is a non-taxable allowance that offsets the higher prices of goods and services, excluding housing, in foreign countries, U.S. territories, Alaska, and Hawaii. A Service member is considered with-dependent if any of the following criteria apply: The Service member is authorized to have a dependent reside at or in the vicinity of the Service member's PDS OCONUS and the dependent resides there; The Service member is joined by a dependent or acquires a dependent while serving OCONUS and the dependent is one of the following: Command sponsored and residing with a Service member at an OCONUS location at which an "accompanied by dependents" tour is authorized, the Service member is authorized to serve that tour, and the dependents are authorized by the appropriate authority to be at the Service member's PDS.

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

RECOMMENDATION

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

Petitioner was authorized OCONUS COLA with "2" dependent vice "1" dependent for [REDACTED] ([REDACTED]) from 16 November 2018 to 28 February 2022.

Note: Defense Finance & Accounting Service will complete an audit of Petitioner's records to determine if Petitioner is due any back pay.

That part of the Petitioner's request for corrective action that exceeds the foregoing be denied.

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

4. 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. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of the reference, has been approved by the Board on behalf of the Secretary of the Navy.

2/9/2023

[REDACTED]