



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

██████████
Docket No. 5338-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO ██████████, USNR, XXX-XX-██████████

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R FMR Volume 7A, Chapter 26

Encl: (1) DD Form 149 w/attachments
(2) Advisory opinion by OCNO N130C2, 31 Jul 23
(3) 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 received back pay for basic allowance for housing (BAH) at the with dependent rate at dependent location from 2 July 2021 through 27 March 2022.

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 10 October 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 17 February 2021, Petitioner enlisted in the U.S. Naval Reserve for 8 years with an expiration of obligated service of 16 February 2029. Petitioner entered active duty on 21 April 2021.

b. On 26 May 2021, mother of Petitioner's children notified Petitioner that from 26 May 2021 until 26 May 2022, she gives full custody of her two children to Petitioner (father). And that this temporary custody will serve as a legal and binding document that will allow him all decisions of the children's well-being to be made for this period. Further stating that Petitioner is serving in the United States Navy during aforementioned dates. And the children will remain at ██████████, ██████████ with their mother and Petitioner is financially responsible for all of children's needs overall during this period.

c. On 1 June 2021, Petitioner signed a Dependency Application (NAVPERS 1070/602) listing Petitioner's father address as ██████████, ██████████. Furthermore, listing child and/or dependent information of two children residing at ██████████, ██████████ (same as Petitioner's father address).

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d. On 7 June 2021, Master Military Pay Account (MMPA) shows that Petitioner was authorized BAH at the with dependents rate for [REDACTED] [REDACTED] effective 21 April 2021.

e. On 2 July 2021, Petitioner transferred from [REDACTED], and arrived to [REDACTED] on 2 July 2021 for temporary duty.

f. On 16 September 2021, Petitioner transferred from [REDACTED], and arrived to [REDACTED] on 16 September 2021 for duty under instruction.

g. On 17 September 2021, MMPA shows that Petitioner was authorized BAH at the with dependents rate for [REDACTED], [REDACTED] effective 16 September 2021.

h. On 11 January 2022, Petitioner transferred from [REDACTED], and arrived to [REDACTED] on 18 January 2022 for temporary duty.

i. Petitioner was released active duty and transferred to the Navy Reserve with an honorable character of service and was issued a DD Form 214, Certificate of Release or Discharge from Active Duty for the period of 21 April 2021 to 27 March 2022 upon completion of required active service.

j. On 18 April 2022, MMPA shows that BAH at the with dependents rate for [REDACTED], [REDACTED] stopped effective 27 March 2022.

k. On 10 August 2022, Superior Court of [REDACTED], [REDACTED], Civil Action Order was issued. By consent of the parties, Petitioner will have temporary sole legal and physical custody of the minor children from 26 May 2021 to 26 May 2022. So ordered.

l. In the advisory opinion, attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request has merit and warrants partial favorable action.

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 remains in the accession pipeline until the Service member arrives at a Permanent Duty Station (PDS), including a training location of 20 or more weeks. A Reserve Component member remains in the accession pipeline until he or she completes entry-level training or arrives at a PDS, whichever occurs first. Petitioner had two dependent children prior to his entry on active duty on 21 April 2021 and he had sole legal and physical custody for the period of 26 May 2021 to 26 May 2022, in accordance with a notarized statement from the children's mother. This statement was later officially ordered by the

¹ Reference (b), a Service member in the accession pipeline includes a Service member who is undergoing initial entry training, including a Reserve Component (RC) member, a student—includes Reserve Officer Training Corps and Officer Candidate School—without prior military Service, or a Service academy graduate upon graduation, until arrival at the first PDS. The Service member remains in the accession pipeline until the Service member arrives at a PDS, including a training location of 20 or more weeks. An RC member remains in the accession pipeline until he or she completes entry-level training or arrives at a PDS, whichever occurs first. Service Member with a dependent. The BAH rate for a new accession with a dependent is based on the dependent's location if the location is in the United States.

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Superior Court of [REDACTED] on 10 August 2022. Because Petitioner was in the accession pipeline he was entitled to BAH at the with dependent rate at the dependent location until he arrived to his PDS in [REDACTED], [REDACTED]. The Board determined that Petitioner was paid BAH correctly from 2 July 2021 to 15 September 2021, however, on 16 September 2021, his entitlement erroneously changed to the [REDACTED], [REDACTED] rate based on his C school. Therefore, Petitioner is entitled to BAH at the with dependents rate for his dependents location in [REDACTED], [REDACTED] J from 16 September 2021 to 17 January 2022. Furthermore, he is entitled to BAH at the with dependents rate for his first PDS, [REDACTED] from 18 January 2022 until his release from active duty.

RECOMMENDATION

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

Petitioner was authorized BAH at the with dependents rate for [REDACTED] effective 2 July 2021 to 17 January 2022.

Petitioner was authorized BAH at the with dependents rate for [REDACTED], [REDACTED] effective 18 January 2022 to 27 March 2022.

Note: Defense Finance and 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.

10/18/2023

[REDACTED]

Deputy Director

Signed by: [REDACTED]