

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 April 2025

DOCKET NUMBER: AR20240009879

APPLICANT REQUESTS:

- entitlement to full per diem from 3 October 2016 – 17 October 2017
- in-person appearance (video/telephone)

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Orders Number C-04-904850, 18 April 2019 – reassigned to the Retired Reserve, effective 1 June 2019
- DD Form 214 (Certificate of Release or Discharge from Active Duty) – service on active duty from 1 October 2015 – 17 September 2016
- DD Form 214 – service on active duty from 3 October 2016 – 15 October 2017
- Travel Voucher Summary – reflective of payment of \$1,635.50 in partial per diem entitlements from 3 October 2016 – 30 September 2017
- DA Form 5960 (Authorization to Start, Stop or Change Basic Allowance for Quarters (BAQ) and/or Variable Housing Allowance (VHA)), 24 October 2016 – request to start receiving BAQ at the with dependents rate based on the 27288 (NC) zip code
- Email communication, 6 May 2024 – advising the applicant that he did not meet the criteria for additional per diem; applicant notes that another reservist received full per diem during his entire tour; redirected to this Board

FACTS:

1. The applicant states in pertinent part that:

- On or about 5 December 2022 - Headquarters Department of the Army (HQDA) issued a directive authorizing full per diem for service members mobilized in support of contingency operations between October 2014-2017
- He was mobilized from 30 October 2016 – 17 October 2017 at Fort Bragg, NC
- The Garrison Commander refused to authorize a Statement of Non-Availability; however, he permitted another officer mobilized during the same period to receive full per diem for the duration of his tour

2. A review of the applicant's available service records reflects the following:

- On 6 May 1989 – appointed a Reserve commission
- On 29 June 2016 (Orders Number C-06-608938) – reassigned the applicant to the U.S. Army Reserve Element, Fort Bragg, NC, effective 29 June 2016
- On 25 July 2016 (Orders Number B-07-603101) – promoted the applicant to the rank of colonel (COL)/O-6, effective 29 June 2016
- On 3 October 2016 (Orders Number 16-277-00052) – ordered the applicant to active duty at Fort Bragg, in a Temporary Change of Station (TCS) status for a period of 385 days in support of Operation Inherent Resolve
 - Government quarters and mess will be used if available
 - Soldier must check with the supporting installation housing office before securing temporary lodging and obtain a DD Form 1351-5 (Government Quarters and/or Mess) authorizing the appropriate entitlements for lodging and M&IE
 - With a Statement of Non-Availability, the Soldier is authorized per diem in accordance with the Joint Travel Regulation (JTR)
- On 5 October 2017 (Orders Number 278-0268) – released the applicant from active-duty, effective 15 October 2017
- On 14 October 2017 (Orders Number UW-287-0001) – ordered the applicant to active duty in support of Operation Enduring Freedom (Conus Support Base); required to report to Fort Bragg, mobilization station on 16 October 2017 for a period of 365 days; applicant's home of record reflects Eden, NC 2728X
 - Ordered to active duty in a TCS status
 - Soldier must check with the supporting installation housing office before securing temporary lodging and obtain a DDF Form 1351-5 authorizing the appropriate entitlements for lodging and M&IE
 - With a Statement of Non-Availability, the Soldier is authorized per diem in accordance with the JTR
 - Travel will be paid for one time travel from home duty station to mob station and back and includes travel and per diem from home station/mobilization station or duty location and return to home station
 - Government lodging is provided at no cost to the Soldier. Dining facilities will be used at the replacement activity, mobilization and demobilization sites and during deployment
 - Per diem payable is \$5.00 Incidental Expense (IE) per day
- On 15 October 2017 – released from active duty

- On 17 October 2017 (Orders Number BG-290-0008) – deployed the applicant in a TCS status to Fort Stewart, GA, in support of Operation Enduring Freedom (Conus Support Base), effective 20 October 2017, for a period not to exceed 361 days:
 - Normal PCS entitlements, allowances, and relocation of family members are not authorized
 - Government lodging is provided at no cost to the Soldier; dining facilities will be utilized for the duration of the mobilization
 - Essential Unit Messing has been declared by Assistance Secretary of the Army (Manpower and Reserve Affairs) ASA(M&RA) for the mobilization and demobilization sites
 - Per diem payable is \$5.00 IE per day
 - Soldier must check with the supporting installation housing office before securing temporary lodging and obtain a DD Form 1351-5 authorizing the appropriate entitlements for lodging and M&IE
 - With a Statement of Non-Availability, the Soldier is authorized per diem in accordance with the Joint Travel Regulation
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- On 9 October 2018 (Orders Number HR-8282-00013) – ordered the applicant to active duty in support of Contingency Operations for Active-Duty Operational Support, effective 16 October 2018, for a period of 211 days; duty location: MacDill Air Force Base, FL
 - Proceed in a permanent change of station during this assignment
 - Authorized movement of dependents and household goods
- On 31 May 2019 – released from active duty
- On 12 August 2019 (Orders Number C08-995723) – retired the applicant and placed him on the retired list, effective 2 June 2019

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

2. The applicant's orders direct him to use government quarters and mess if available. This means, the applicant was required to use government Mess and quarters if they were available. There is no evidence showing the applicant received a statement of non-availability nor is there any evidence that government mess and quarters were unavailable to the applicant.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
█	█	█	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

5/6/2025

X

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. JTR provides policy and laws establishing travel and transportation allowances of Uniformed Service members and Department of Defense (DoD) civilian travelers. It also implements station and certain other allowances. The JTR has the force and effect of law for travelers and implements statutory regulations and law for DoD civilian travelers. Per diem allowance is also known as a subsistence allowance and is a daily payment instead of actual expense reimbursement for lodging, meals, and incidental expenses. A per diem allowance is separate from transportation expenses and other reimbursable expenses. The per diem allowance is a daily rate meant to cover living expenses. It provides the maximum amount a traveler may be reimbursed for lodging, meals, and incidental expenses

a. Section 030302 (Reserve Component (RC) Member Performing Active Duty with Pay who does not Commute) provides that an RC member on official orders who does not commute daily, but travels between the duty location and the primary residence or PLEAD, which are outside the local area of the duty location, may be eligible for travel allowances. If the RC member begins travel from a PLEAD other than the primary residence, then transportation allowances are authorized from the PLEAD to the duty location and return to the PLEAD or primary residence. However, the reimbursement is limited to what it would have cost for transportation had the traveler only traveled between the RC member's primary residence and duty location. If there is a break in active-duty service that exceeds one full day, then the PLEAD changes to the place where the member reenters active duty. If the Reserve Component member relocates the primary residence during the active-duty period, and there is a break in service or active duty exceeding one full day upon termination of the order, then the allowances under a new order are based on the new primary residence on the first active duty day. An assignment that lasts for 181 or more consecutive days at one location becomes a Permanent Change of Station. Per diem is not payable at the PCS location.

b. Section 0329 (Operational Deployments and Contingency Operations) provides that the Secretary concerned, or Commander may direct the use of no-cost Government contracted or owned quarters when a Service member or civilian employee is assigned to a contingency operation or operational deployment or performing duty under similar conditions. These no-cost Government quarters may be at or near the U.S. installation and are specifically for Service members and civilian employees assigned to a contingency operation or operational deployment or performing duty under similar conditions. The Secretary concerned or Command may direct the use of no cost Government contracted quarters off the U.S. installation but may not direct the use of Government meal rate.

- a Service member or civilian employee who is temporarily assigned to a Combatant Command (CCMD) or Joint Task Force (JTF) for operational

- deployment or contingency operations, or performing duty under similar conditions within the same area of responsibility (AOR), may be eligible for travel allowances
- The CCDR or JTF Commander determines the allowances
 - The CCDR and JTF Commander's decision about what is payable must be stated in the travel authorization; the determination of the CCDR and JTF Commander supersedes what the AO puts in the TDY order
- c. Incidental Expense Amounts for a traveler sent temporary duty to a location within the U.S. is \$5.00 per day.
- d. Chapter 5 (Permanent Duty Travel) provides that transportation allowances are for travel directly from the old Permanent Duty Station (PDS) to the new PDS, or between authorized locations in the JTR. Per diem allowance is determined by the mode of transportation authorized and used, the official distance, the number and age of dependents authorized to travel, and whether a dependent is traveling with the Service member
- e. Section 010206 (Travel Authorizations and Orders) provides that travel and transportation allowances are payable only after valid orders are issued. The order directs travel to, from, or between official points and serves as the basis for the trip and associated reimbursements. A travel authorization or order should be issued before travel begins. Travel or expenses incurred before a travel authorization or order is issued are not reimbursable, unless otherwise stated in the JTR. In unusual or urgent situations when travel must begin before a written authorization or order can be issued, a verbal authorization may be given. In such cases, the verbal authorization must be followed up in writing (called a "confirmatory order") before allowances are paid. A travel order may only contain authority for travel and transportation allowances provided within the JTR. A travel order may only contain authority for travel and transportation allowances provided within the JTR. If there is any conflict between a travel order and the JTR, the JTR prevails.
- f. Travel authorizations and orders cannot be retroactively modified to increase or decrease an allowance after the travel is completed. A travel authorization or order may be retroactively corrected to show the original intent. When an allowance is approved after travel begins, it does not constitute a retroactive modification to create, change, or deny an allowance. An amendment is effective on the date it is issued and is not retroactive unless it contains language that corrects an error or omission or provides a confirmation of the date of the verbal authorization.
- g. Section 010201 (Key Participants) provides that an Authorizing or Approving Official (AO) determines whether travel is necessary and appropriate to the mission, ensures that all expenses claimed by the traveler are valid, and authorizes or approves

the expenses if they are valid. Expenses must not be approved if they are inflated, inaccurate, or higher than normal for similar services in the locality. If the JTR indicates an expense, allowance, or other item must or may be authorized (such as the mode of transportation), it means the AO must give permission before the action takes place.

2. Army Regulation 15-185 (ABCMR) paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicant's do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//