



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

LCC:ecb
Docket No: 6094-03
21 October 2003

[REDACTED]

Dear [REDACTED]

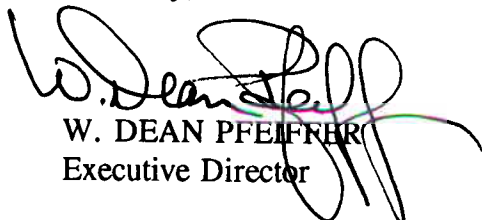
This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 21 October 2003. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by CNO memorandum 7220 Ser N130C3/03U0715 dated 10 October 2003, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,


W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO:

7220
Ser N130C3/03U0715
10 Oct 2003

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTIONS
OF NAVAL RECORDS

Via: Assistant for BCNR Matters, Pers-00XCB

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO
[REDACTED]


Ref: (a) DODFMR Volume 7A, Chapter 26, May 03

Encl: (1) BCNR Case File #06094-03

1. Per your request, the following recommendation concerning enclosure (1) is provided.
2. Enclosure (1) indicates a request to draw Basic Allowance for Housing (BAH) type I at the w/dependent rate for Oakland, CA due to dependents moving back to United States prior to transferring from a OCONUS Permanent Duty Station (PDS).
3. IAW reference (a), Secretary of Defense determines BAH type I rates and locations for all members in a Military Housing Area (MHA) based on the members Permanent Duty Station (PDS) in CONUS. IAW reference (a) paragraph 260101-F Overseas Housing Allowance (OHA) rates are determined by the Per Diem Travel and Transportation Allowance Committee. A review of the petitioner's Master Military Pay Account (MMPA) revealed that he reported for duty to Commander Fleet Air Mediterranean, Naples, Italy, which is an OCONUS Permanent Duty Station where his OHA was, started IAW reference (a).
4. Verification of his MMPA revealed that member is currently drawing OHA and COLA at the w/dependent rates as if his dependents are still living in [REDACTED]. In enclosure (1), petitioner's NAVPERS revealed that effective 21 March 2003 that his dependent returned to CONUS and established permanent residence at 125 Moss Avenue Apt #205 Oakland, CA 94611. Once the dependents departed the OCONUS PDS and returned to Oakland, CA, the members OHA and COLA w/dependents rate stops. The petitioner is entitled to BAH type II until executing a Permanent Change-Of-Station (PCS) orders and reporting to a PDS in CONUS to be eligible for BAH type I rates.

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5. N130C recommends disapproval of the petitioner's request to draw BAH type I and recoup OHA and COLA effective 21 March 2003.



Assistant Head, Pay and
Allowances Section (N130C)