



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

█  
Docket No. 5926-23  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER MEMBER █  
█ USMC

Ref: (a) Title 10 U.S.C. § 1552  
(b) DoD 7000.14-R FMR Volume 7A, Chapter 26  
(c) MCO 11000.22 of 14 Jul 2014

Encl: (1) DD Form 149 w/attachments  
(2) Advisory opinion by HQMC memo 7200 RFF, 27 Jul 23  
(3) Advisory opinion by HQMC memo 1070 MPO, 1 Nov 23  
(4) 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 removal Basic Allowance for Housing (BAH) checkage in the amount of \$27,443.38 due to an administrative error.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 4 January 2024 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 25 March 2014, Petitioner's dependency application (NAVMC 10922) was submitted and signed by both Petitioner and certifying official. The application listed Petitioner's legitimate son born on 29 April 2012 and custodian as █. (Grandmother) residing in █, █. Furthermore, Petitioner divorced █. on 4 March 2014. There was not court order or written agreement in effect relative to support/maintenance/paternity.

b. On 28 August 2014, Petitioner signed a Residential Lease with █ Corporation for an apartment, with a Possession date of 6 September 2014, Lease Commencement date of 1 October 2014, and expiration date of 30 September 2015. With Petitioner's two dependent children and their mother as approved occupants.

c. On 13 January 2015, Military Protective Order (MPO) (DD Form 2873) was submitted and signed by both Petitioner and certifying official which stated, "[s]ervice member was recently apprehended by civil authorities for allegations of domestic abuse by the protected person. Due to recent events that have occurred within the service members residence, it has become necessary to prohibit any form of contact

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between the service member and protected person in order to ensure the safe and welfare of both parties.” The terms of this order was effective until 13 February 2015, unless sooner rescinded, modified, or extended in writing.

d. On 21 January 2015, Petitioner signed a Check-In Form issued by [REDACTED] and was assigned room 22B in Building 416B.

e. On 26 February 2015, Commanding Officer (CO), [REDACTED], [REDACTED], [REDACTED] notified the Parliaments Apartments that, “[i]n accordance with the provisions of [REDACTED] 1 you are hereby provided this written notice that I have ordered [Petitioner] to report to government-supplied quarters”.

f. On 13 March 2015, the [REDACTED] provided a statement that, “I was the civilian defense counsel for [Petitioner] and represented him on a charge of assault on a family member in the Juvenile and Domestic Relations Court of [REDACTED]. On March 2, 2015, [Petitioner] and I appeared before Judge [REDACTED]. The charge was dismissed by the judge because the prosecutor was unable to present evidence indicating that [Petitioner] was in any way guilty of the charge. The judge and the prosecutor did not require anything further of [Petitioner].”

g. On 20 April 2016, Logistics NCO, [REDACTED] notified Director, Consolidated Administration Office that, “[t]his is to certify that [Petitioner] has vacated [REDACTED] [REDACTED] on 20 April 2016.”

h. On 15 May 2016, Defense Finance & Accounting Service (DFAS) issued Petitioner a Leave and Earnings Statement for the period of 1 May 2016 to 31 May 2016. BAH-Differential (BAH-Diff) stopped effective 19 April 2016 and BAH at with dependents rate started effective 20 April 2016.

i. On 19 May 2016, Petitioner signed a Waiver of Indebtedness Application (DD Form 2789) requesting a waiver of the gross debt amount of \$27,443.38 that he received for BAH at the with dependents rate. Commander endorsed on 11 July 2016. Petitioner signed CO’s Financial Worksheet Recertification listing Child Support/Alimony in the amount of \$800.00 under mandatory monthly deductions. Additionally, Petitioner provided written statement in case of the Waiver of Indebtedness.

j. On 11 July 2016, CO notified Director, the DFAS via Director, Consolidated Administration Center that he recommended that Petitioner’s request for Waiver of Indebtedness not be granted.

k. Petitioner was discharged 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 10 February 2013 to 27 January 2018 due to Disability, Severance Pay, Not Combat Related, IDES.

l. On 8 April 2017, the mother of children notified To Whom This May Concern that, “[Petitioner] is responsible for helping support [their two children] in the amount of \$800.00 monthly from April 2013 to present.”

m. On 7 March 2022, the DFAS notified Petitioner that they were unable to process the waiver request, and listed information and/or documentation that DFAS require in order to continue reviewing the waiver application. Further stating that in their letter of February 7, 2022, to Petitioner that they requested his barracks check-in sheet from March 26, 2014. If no documents exists indicating Petitioner’s check-in to the barracks after his divorce, DFAS ask Petitioner’s command to reconsider the validity of the debt during the period of March 4, 2016 (date of divorce) through January 13, 2015 (date of MPO) since Petitioner was living with his dependent child and entered a new lease with his dependent

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child's mother on September 9, 2014. If debt for the period of March 4, 2014, through January 13, 2015, is invalid, Petitioner's command will need to refund that portion of the debt and provide new debt computation for the remaining debt.

n. On 10 November 2023, ██████████. (Grandmother) provided a statement that, "I have never had legal or physical custody of either of my grandchildren, nor has either child lived with me. I had an agreement with my son [Petitioner] that, in the event he would be deployed, I would take care of my grandchild [█] until his return. [█] has always resided with [Petitioner] and temporarily with his mother."

o. On 16 December 2023, the mother of children provided a statement that, "I am the natural mother of [█] and [█]. I write this statement as a true testament and do certify that [Petitioner], the natural father, has had legal physical custody of [█] since birth. [Petitioner] has provided financial support for [█] since her birth and while in my physical custody. [█] has had regular visitation periods with her father as agreed. [█] has physically lived with his father from birth except for a short time while [Petitioner] lived on base due to an altercation between myself and [Petitioner]. [Petitioner] has always had legal custody of [█] per our agreements. [Petitioner] has cared for [█]'s medical needs, food, living quarters and overall physical well-being. [█] physically lived with me from June 2015 thru March 2016 due to my relocating to ██████████ and wanting to spend time with [█]. During that time, [Petitioner] provided adequate financial support to me for both children. As per our agreement, [L] returned to the care of his father and has remained in his care since that time."

## CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (3), the Board finds the existence of an injustice warranting the following partial corrective action. The Board concluded after a detailed review of all relevant data and evidence submitted by Petitioner, he failed to follow the requirements of reference (c)<sup>1</sup> by not officially requesting permission to reside off installation following his divorce. However, submitted evidence confirmed that Petitioner's command knowingly allowed him to reside off the installation, which resulted in a valid payment of basic allowance for housing with dependents during his non-assignment of government quarters. Additionally, the Board determined that Petitioner's request to waive the checkage of BAH with dependents during his assignment to government quarters should not be approved based on reference (b).<sup>2</sup>

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<sup>1</sup> Reference (c), all permanent party personnel, E5 and below, will reside in the bachelor housing unless authorized by the Installation Commander to reside off-base. The Installation Commander is responsible for the management, utilization, and operation of all bachelor housing resources aboard the installation. The Installation Commander shall: Review and approve requests for entitlement to BAH subject to the Installation's bachelor housing occupancy rate, and certificate of nonavailability/non-residency of quarters appropriate for the Marine's rank and marital status. Single E5 and below shall be directed to reside in adequate Government bachelor housing unless authorized to reside off- base if space is available and the occupancy rate is not 95% or above. Unit Commanders, Lieutenant Colonel (O-5) and above, may designate personnel who must live in the bachelor housing by military necessity.

<sup>2</sup> Reference (b), assignment to Government quarters affects a Service member's eligibility for BAH. A housing allowance, other than BAH-Partial or BAH-Diff, is not authorized for a Service member who is assigned to Government quarters appropriate to the Service member's grade, rank, or rating and adequate for the Service member and dependents, if any. The commander responsible for the Government quarters has the authority to assign and terminate the assignment.

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RECOMMENDATION

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

Petitioner's request to continue to live out in town after his divorce and receive BAH at the with dependents rate was submitted in a timely manner and approved by the Installation CO.

Petitioner was authorized BAH at the with dependents rate for [REDACTED], [REDACTED] metro area [REDACTED], from 5 March 2014 to 20 January 2015.<sup>3</sup>

DFAS will complete an audit of Petitioner's records to determine if Petitioner is due any back pay.

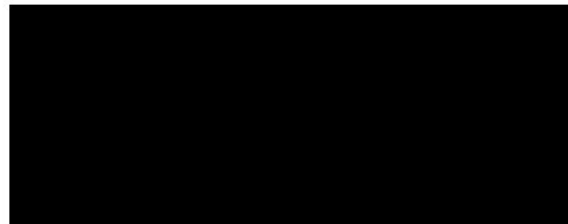
That no further changes be made to Petitioner's naval record.

That 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.

1/22/2024



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<sup>3</sup> Petitioner was divorced on 4 March 2014 and was assigned government quarters on 21 January 2015.