



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

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Docket No. 10882-23
Ref: Signature Date

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Dear █,

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 15 August 2024. The names and votes of the members of the panel will be furnished upon request. 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, relevant portions of your naval record and applicable statutes, regulations, and policies. In addition, the Board considered the advisory opinion contained in Office of the Chief of Naval Operations memorandum 7431 Ser N130C2/24U0561 of 21 June 2024, which was previously provided to you for comment.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

In accordance with OPNAVINST 7220.12 published on 24 December 2005, single members who pay child support and who do not reside in government quarters within the United States are authorized Basic Allowance for Housing (BAH) with dependents based on payment of child support. (These members were authorized to receive BAH single and BAH-Differential (BAH-DIFF) prior to 1 January 2006). Single members who pay child support and who are assigned to government quarters are authorized to receive BAH-Diff only.

Navy policy restricts eligibility to berth ashore for single shipboard Sailors E-5 and E-4 (with greater than four years of service), contingent upon the approval of their commanding

officer. This approval, however, does not constitute an authorization to receive a housing allowance, but simply allows the member to reside off the ship.

The shore-based facility commander shall make the determination whether the member will be berthed in single bachelor quarters or entitled to draw an off-base housing allowance.

On 6 October 2020, you entered active duty. On 16 February 2021, your dependent child was born. On 16 June 2021, you were advanced to IC3/E-4. On 20 August 2021 and again on 30 August 2021, you signed a Record of Emergency Data (DD Form 93) listing your dependent child living in ██████████. On 22 November 2021, you signed a Dependency Application/Record of Emergency Data (NAVPERS 1070/602) listing your dependent child born living in ██████████. Support in the amount of \$300.00 was listed.

On 7 December 2021, Petitioner transferred from ██████████, and arrived to ██████████ on 8 December 2021 for duty. On 14 December 2021, in accordance with the Master Military Pay Account, BAH Diff started effective 8 December 2021. On 4 January 2022, you signed a Dependency Application/Record of Emergency Data (NAVPERS 1070/602) listing your dependent child born living in ██████████. Support in the amount of \$300.00 was listed.

On 3 October 2022, the State of Connecticut, Superior Court (Court Order – Family Support Magistrate) notified you that you were adjudged to be the parent of A.D.S. You were directed to pay child support in the amount of \$119 per week to your child’s mother. Income withholding was immediate. Arrearage \$4,297.77 as of 3 October 2022 to be paid at \$22.00 per week. On 29 October 2022, the Defense Finance and Accounting Service notified you that, “[w]e have been served with an income withholding order for child and/or spousal support from the ██████████ Pursuant to Title 42 United States Code Section 659, we have authorized a deduction from your pay to comply with the order – Payments of \$612.67 not to exceed 60.00 percent of your disposable earnings will be remitted to ██████████ for case number ██████████. Payments will continue until further order of the court or administrative agency.”

On 2 May 2023, you signed a Record of Emergency Data (DD Form 93) listing your dependent child living in ██████████. On 2 May 2023, you signed a Dependency Application/Record of Emergency Data (NAVPERS 1070/602) listing your dependent child living in ██████████. “NAVPERS 1070/602 updated to document child support ordered by the court in the total amount of \$612.67 monthly. Actual amount member providing: \$615.00 via electronic draft to: [child’s mother].”

You signed a Naval Station ██████████ BAH – Single Request and was approved by cognizant authority on 5 July 2023.

On 16 December 2023, you were advanced to IC2/E-5.

On 11 January 2024, in accordance with the Master Military Pay Account, BAH at the with dependents rate for ██████████ was started effective 15 December 2023.

You requested BAH at the with dependent rate since February 2021, the Board in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that on 16 February 2021, your dependent child was born. On 22 November 2021, you signed a NAVPERS 1070/602 that you were providing support in the amount of \$300.00 and you began to receive BAH-Diff effective 8 December 2021. The receipts you provided were insufficient to establish that you provided the appropriate amount of support prior to 22 November 2021. Therefore, BAH-Diff was appropriately started once you certified that you were providing child support. The Board determined that you were not authorized to live off base and receive BAH because you were an E-4 sailor with less than 4 years of service, therefore you were only entitled to BAH-Diff. You began to receive BAH at the with dependent rate effective 15 December 2023 in connection with your advancement to IC2/E-5. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or 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,

8/22/2024

