

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

> Docket No. 2156-24 Ref: Signature Date



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 10 September 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 N130C2/24U0567 of 24 June 2024, which was previously provided to you for comment.

In accordance with Head, Military Pay and Compensation Policy Branch (N130) Memo, published on 29 July 2010, in order to be eligible for a Dependent Designated Place move, the member must be assigned to (a) Unusually Arduous Sea Duty (eligible commands can be found in OPNAVINST 4650.17), or (b) An unaccompanied tour OCONUS (CONUS = continental 48 states, OCONUS = outside of continental 48 states).

On 1 October 2019, you signed an Apartment Lease listing the following: "PREMISES. Landlord, in consideration of the lease payments provided in this Lease, leases to Tenant the following: One-bedroom one-living room one-bathroom (the "Premises") located at

. No other portion of the building (hereinafter, the building), wherein the Premises is located is included unless expressly provided for in this Agreement."

"TERM. The lease term will begin on January 01, 2020 ("Commencement Date") and will terminate on January 01, 2025, and thereafter shall be month-to-month on the same terms and conditions as stated herein, save any changes made pursuant to law, until terminated."

In accordance with DoD 7000.14-R Financial Management Regulation, Volume 7A, Chapter 26, Table 26-46. Housing Allowance for Service Member in Transit for New Accession, Rule 2: If the service member is newly inducted, enlisted, or an officer candidate, and the service member has a dependent located outside the United States, then a. start BAH [Basic Allowance for Housing] based on the training location beginning the date of enlistment, entry on AD [Active Duty], or the date AD pay begins through the day before the day the Service member reports to the first PDS [Permanent Duty Station], including a training location for 20 or more weeks.

On 26 October 2022, Commanding Officer forwarded your request for a single parent waiver to higher authority, signing a Waiver Briefing Sheet (NAVCRUIT 1133/39) listing that you have full custody of your son, and your former spouse ... currently live in and is taking care of your son in and, applicant is requesting to go active duty. On 2 November 2022, Commander, that "Per [COMNAVCRUITCOMINST 1130.81],

the dependency waiver requested in enclosure (NTAG Empire State NAVCRUIT 1133/39 of 26 October 2022]), is approved for enlistment into the Active or Reserve Component. The applicant may enlist providing applicant remains qualified in all other respects."

On 13 December 2022, you entered active duty. Your Master Military Pay Account (MMPA) shows that you were authorized BAH at the with-dependents rate for

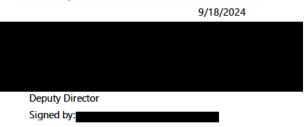
effective 13 December 2022. On 21 December 2022, you certified a Dependency Application/Record of Emergency Data (NAVPERS 1070/602) listing the following: Marriage Dissolved by divorce on 6 October 2022. Child for the born in August 2012 and residing at the following is listed as custodian of your daughter, and you were paying \$211.80 per month in support. In the born in October 2015 and residing at the with for the support. The states state: "Member's son is staying with Member's mother while in boot camp. Member will provide \$211.80 in support for daughter."

On 24 February 2023, you transferred from the provide the provided of the prov

On 29 September 2023, you transferred from a growth of a growth of

You requested approval to receive BAH at the with dependent rate for zip code retroactive to your entry into Active Duty, the Board in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. You assert that your son was born and resided in this entire life, except for the period he was in with your mother while you were in boot camp. However, the Board concluded that upon your entry to the Navy, you signed NAVPERS 1070/602 which states that your son was with your mother in while you were in boot camp and that you were paying child support for your daughter in the amount of \$211.80 per month. Furthermore, you did not provide documentation granting you custody of your son or any other documentation showing he was actually residing prior to your entry into active duty. Therefore, you are not entitled to BAH based in for said period. In accordance with DoD 7000.14-R Financial Management on zip code Regulation, if a service member has a dependent located outside the United States, then start BAH based on the training location beginning the date of enlistment. Additionally, because your orders were not unaccompanied or for unusually arduous sea duty, you are not entitled to BAH at the with dependents rate for any location but the new PDS. In this connection, the Board substantially concurred with the comments contained in the aforementioned 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,