

JUL 23 1998

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 97-02495

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His records be corrected to reflect that he was entitled to Safe Haven benefits until 11 Dec 96, rather than 18 Oct 96.

APPLICANT CONTENDS THAT:

His benefits were terminated earlier than they should have been because of the inaccurate information him and his spouse were provided.

In support of his appeal, the applicant provided a supportive statement and other documents associated with the matter under review.

Applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS:

Information extracted from Personnel Data System indicates that the applicant is currently serving on active duty in the grade of staff sergeant.

The relevant facts pertaining to this application are contained in the letter prepared by the appropriate office of the Air Force. Accordingly, there is no need to recite these facts in this Record of Proceedings.

AIR FORCE EVALUATION:

The Military Compensation & Legislation Division, USAF/DPCC, reviewed this application and recommended denial. DPCC noted the applicant's allegations that decisions made as a result of improper counseling, along with a lack of appropriate

reimbursements to meet required expenses, caused his family great financial hardship. More specifically, he indicated the Randolph TMO and Family Support Center told his spouse she was eligible to request and accept a shipment from nontemporary storage without it affecting her eligibility to receive Safe Haven/Designated Place benefits.

According to DPPC, the Joint Federal Travel Regulation (JFTR), paragraph U6005-E states that per diem allowance at the designated place will terminate at 2400 hours on the day the dependents first occupy the permanent residence or at 2400 hours on the 30th day, whichever is earlier. Criteria used to determine what is meant by "occupy permanent residence" include: statement of member/dependents that the residence will be used until member's next PCS; length of lease or other agreement; children in school; turning on utilities in member's/dependent's name; or former residence is occupied. If none of these apply, once household goods (HHG) (other than unaccompanied baggage) are delivered, then permanent residence is occupied. There was some initial confusion on the part of evacuated families as to which criteria would actually terminate their entitlements. The Air Force, in conjunction with the Army, adopted the most liberal criteria: acceptance of household goods. This criteria coincided with what families had originally been briefed while still in Saudi Arabia and is printed on the 5 Oct 96 Designated Location Memorandum. The applicant's spouse accepted shipment of household goods from nontemporary storage on 18 Sep 96. At the time, she was in a Safe Haven status, as opposed to Designated Place status, and should not have been allowed to receive a household goods shipment.

DPPC indicated that the intent of designated place allowances is to help defray the costs of locating and establishing a permanent residence at the designated place. Family members are expected to occupy a permanent residence as soon as possible. Upon occupancy of the permanent residence, designated place allowances (per diem and local travel) terminate and normal allowances associated with a PCS move begin (i.e., Dislocation Allowance when all dependents arrive at the designated place and Variable Housing Allowance when dependents occupy the permanent residence). Additionally, sponsors continue drawing their basic allowance for quarters (BAQ) and family separation allowance II (FSA-II) to help pay the living expenses of their family members.

Effective 3 Sep 96, all Department of Defense (DOD) family members in safe haven status or in authorized delay (except those joining their sponsor on an accompanied tour), were directed to move to a designated place as soon as practical, but not later than 18 Oct 96. When the applicant's spouse accepted delivery of household goods from nontemporary storage on 18 Sep 96, she was still in a Safe Haven status. As such, there was no entitlement to receive household goods. The entitlement to Safe Haven benefits, therefore, continued until she converted to a Designated Place status. Since she had already received

household goods on the date she entered Designated Place status on 18 Oct 96, all Safe Haven/Designated Place entitlements stopped.

DPPC stated that the repatriation of families from Saudi Arabia was a unique situation involving complicated entitlement issues. The applicant did experience unnecessary hardship as a result of miscounseling and delayed receipt of entitlements for 30 days. Although they realize these were trying times for his family, in DPPC's view, they can find no reasons, based on Safe Haven/Designated Place provisions in establishing a permanent residence, to extend entitlements beyond 18 Oct 96.

A complete copy of the DPPC evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Applicant indicated that if him and his spouse had received accurate facts concerning the receipt of household goods, their actions would have been radically different. They listened to the rules, took actions based on those rules, and then were told that the original rules were wrong. He should not be penalized nearly \$2,000 because of someone else's lack of knowledge. They are not trying to put one over on the government. They simply would like to be paid the Safe Haven benefits for the period 19 Oct 96. During this period, his wife had to buy all the things necessary for day-to-day living that were in the shipment which arrived on 11 Dec 96. She had to buy these things after the benefits were already cut off.

Applicant's complete response is at Exhibit E.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. After reviewing the facts and circumstances of this case, it appears that the applicant and his wife may not have been properly advised during the evacuation and repatriation of dependents from Saudi Arabia, resulting in a financial burden to him and his family. In our view, any doubt regarding this matter should be resolved in favor of the applicant. Accordingly, we recommend that the applicant's records be corrected to reflect that he was

entitled to Safe Haven benefits until 11 Dec 96 rather than 18 Oct 96.

THE BOARD RECOMMENDS THAT:

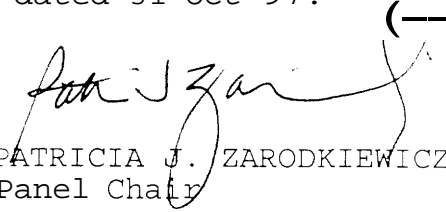
The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that his request for Safe Haven allowance(s) for the period 19 Oct 96 to 11 Dec 96, was approved by competent authority.

The following members of the Board considered this application in Executive Session on 19 May 98, under the provisions of AFI 36-2603:

Ms. Patricia J. Zarodkiewicz, Panel Chair
Mr. Jackson A. Hauslein, Member
Mr. Robert W. Zook, Member

All members voted to correct the records, as recommended. The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 21 Aug 97, w/atchs.
Exhibit B. Applicant's Master Personnel Records.
Exhibit C. Letter, HQ USAF/DPPC, dated 3 Oct 97.
Exhibit D. Letter, SAF/MIBR, dated 27 Oct 97.
Exhibit E. Letter, applicant, dated 31 Oct 97.


PATRICIA J. ZARODKIEWICZ
Panel Chair