



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

LCC
Docket No. 10383-08
13 Jan 09

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

Subj: REVIEW OF NAVAL RECORD ICO
[REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) CNO memo 7220 Ser N130E2/08U0935 of 9 Dec 08
(3) Subject's naval record

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show that Petitioner was sent on Temporary Duty (TDY) vice Permanent change of station (PCS) and entitlement to Basic Allowance for Housing (BAH) while attending school in 2006.

2. The Board, consisting of Messrs. Exnicios, Ruskin, and Zsalman, reviewed Petitioner's allegations of error and injustice on 12 January 2009 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, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request for BAH has merit and warrants favorable action. However, they recommend that the request to modify the orders from PCS to TDY be denied.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

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

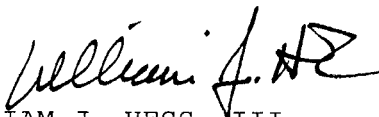
a. Petitioner was authorized BAH for designated location of dependents for the period 22 May 2006 through 13 October 2006. Address for dependents was [REDACTED]

b. That part of the request to change the orders from PCS to TDY is denied. The Joint Federal Travel Regulations provides that any time during which the training is officially not in session, must be discounted from the duration of the course. Although, several holidays took place during this time, CNO N130E2, has confirmed that the school was never closed, as is the practice for other holidays such as Christmas. Although attendees were granted liberty, that does not constitute a school closure.

c. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

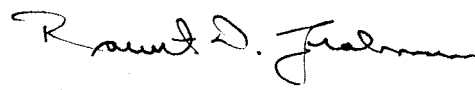
4. It is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


WILLIAM J. HESS, III
Acting Recorder

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 reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

13 January 2009


W. DEAN PFEIFFER
Executive Director