



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

[REDACTED]
Docket No. 7893-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED] USMC

Ref: (a) Title 10 U.S.C. § 1552
(b) MCO P1070.12K of 14 Jul 00
(c) MCO 1900.16 of 7 Aug 15

Encl: (1) DD Form 149 w/attachments
(2) 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 her naval record be corrected to show Petitioner was eligible for and received full involuntary separation pay vice half involuntary separations pay, and that Petitioner's dependents be added to her Official Military Personnel File.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 10 March 2022 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. 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. On 11 July 2005, Petitioner entered active duty.

c. On 1 February 2010, Petitioner was counseled in accordance with MARADMIN 029/10 and 198/07 regarding changes to the Marine Corps Uniform Regulations. By signing, she acknowledged the location, size, and description of all tattoos that might be prohibited under the new policy. In accordance with MARADMIN 029/10 and 198/07, she further acknowledged that she was granted a grandfather status for her current tattoos and any further tattoo must be in accordance with Marine Corps Uniform Regulations. Petitioner's violation of Marine Corps Uniform Regulations may result in administrative action to include Non-Judicial Punishment and/or administrative separation from the Marine Corps.

d. On 20 December 2010, Petitioner received Non-Judicial Punishment (NJP) for violation of Uniform Code of Military Justice Article 91 and Article 92. Punishment awarded was suspended reduction to Lance Corporal (E-3) for 6 months.

e. On 1 July 2011, Petitioner was promoted to Sergeant/E-5.

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f. On 19 November 2012, Petitioner reenlisted for 2 years with an End of Current Contract (ECC) of 18 November 2014.

g. On 12 March 2015, Petitioner signed an agreement to extend enlistment for 4 months with an End of Active Service (EAS) of 18 March 2016 awaiting the results of the next fiscal year selection board.

h. On 10 August 2015, Commandant of the Marine Corps notified Commanding Officer, Marine Corps [REDACTED] that Petitioner's Dependency Application of 16 June 2015 was approved for her ward effective 15 June 2015.

i. On 22 September 2015, Petitioner submitted a Reenlistment Extension Lateral Move (RELM) Request (NAVMC 11537) in order to allow for promotion consideration on the 2016 Staff Sergeant board. Remarks section commented that Petitioner was over 10 years of service and was at service limits. Petitioner required further guidance on tattoo suitability due to tattoo received after 2010 grandfathering of previous tattoos. Petitioner's request was approved by cognizant authority on 30 October 2015.

j. On 29 October 2015, Petitioner notified Commandant of the Marine Corps (MMEA-1) she was subject to NJP in December 2010 which resulted in 6 months promotion restriction to the rank of Sergeant. After the restricted period, she pinned on the rank of Sergeant on 1 July 2011. Petitioner respectfully requested a waiver of the Enlisted Career Force Controls (ECFC) in order to continue her career as an Administrative Specialist. She also requested the waiver because she wanted to have ample amount of time for another look on the FY 16 staff selection board. She stated that she believed that with her continued time in the field she could set a good example for her future Marines, have a positive influence, and pass on a wealth of knowledge and experience.

k. On 2 December 2015, First Endorsement on Petitioner's letter 1040 of 29 October 2015 from Commanding Officer, [REDACTED] to Commandant of the Marine Corps (MMEA-1) was forwarded recommending approval. Petitioner has multiple tattoos that were not documented in her records at the time her others were properly grandfathered in February 2010 and has since received multiple additional tattoos. Despite the violations of the Marine Corps tattoo policy, he enthusiastically recommend Petitioner for a waiver of service limitations. She is a positive, fit, dedicated noncommissioned officer leader. Must retain!

l. On 11 January 2016, Second Endorsement on Petitioner's letter 1040 of 29 October 2015 from Commanding Officer, Marine Corps [REDACTED] to Commandant of the Marine Corps (MMEA-1) forwarded, recommending disapproval due to repeated violations of the Marine Corps tattoo policy following her acknowledgement of understanding of MARADMIN 029/10 and grandfather of previous tattoos on 1 February 2010.

m. Third Endorsement on Petitioner's letter 1040 of 29 October 2015 from Commanding General, Training Command to Commandant of the Marine Corps (MMEA-1) forwarded, recommending disapproval. She is in violation of the Marine Corps Tattoo Policy and requires a waiver of reenlistment prerequisites. Petitioner was counseled regarding MARADMIN 029/10 in 2010, acknowledged her understanding of the policy, had all 21 of her tattoos documented, and then decided to receive 5 additional tattoos from 2012 to 2014. [REDACTED] has violated the Marine Corps Tattoo Policy and he did not recommend a waiver.

n. On 1 March 2016, Petitioner signed an agreement to extend enlistment for 1 month with an EAS of 18 April 2016 in order to have sufficient obligated service to finalize Commanding General waiver request for additional service.

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- o. On 1 March 2016, Petitioner's Careerist Active Duty Extension request was submitted.
- p. On 11 April 2016, Petitioner's Reporting Senior certified Petitioner's USMC Fitness Report (NAVMC 10835A) for the period of 16 May 2015 to 31 March 2016 and wrote the following: "Enthusiastically recommend for retention and promotion." Furthermore, on 19 April 2019, Petitioner's Reviewing Officer certified Petitioner's NAVMC 10835A and wrote, "My highest recommendation for retention and promotion to Staff Sergeant."
- q. On 3 May 2016, Petitioner's Careerist Active Duty Extension request was disapproved by HQMC.
- r. On 13 May 2016, Petitioner was counseled via NAVMC 118(11) that she was informed by Commanding Officer this date that she was authorized for Half Separation Pay per MCO 1900.16. MMEA-1 had assigned a reenlistment eligibility code of RE-4. Additionally, she was informed that the requirement to serve a period of 36 months in the Marine In-active Ready Reserve (IRR) to receive the separation pay had been waived.
- s. On 24 May 2016, Petitioner married [REDACTED]. Petitioner's spouse had two children: [REDACTED] born on 13 August 2006 and [REDACTED] born on 22 October 2011.
- t. On 18 June 2016, Petitioner was honorably discharged due to non-retention on active duty and received half involuntary separation pay.
- u. On 18 August 2016, HQMC notified BCNR that Petitioner submitted an extension request to their office on 29 February 2016. HQMC disapproved Petitioner's request for further service on 3 May 2016 and authorized payment of half separation pay at the time of separation and a RE code of RE-4 per MCO P1900.16.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of references (b)¹ and (c)², the Board finds the existence of an injustice warranting the following partial corrective action. The Board concluded that for Petitioner to be eligible for full separation pay, she must have been fully qualified for retention, but denied reenlistment or continuation on active duty due to established promotion or high-year tenure policies. Petitioner was not fully qualified for reenlistment. Petitioner was aware that any violation of the Marine Corps Uniform Regulations could result in

¹ In accordance with reference (b), the RED (Record of Emergency), provides a current official and legally binding record of relatives, beneficiaries and emergency information on each Marine to be used to make casualty notification and to adjudicate claims for various death benefits. A current record of persons related to the Marine who may be entitled to death benefits as prescribed by law (SGLV, disposition of remains, shipment of personal effects, etc.). This includes the current spouse, all children (regardless of age, or dependency), parents (natural, adopted, step, etc.), guardians of minor children, persons acting in loco parentis to the Marine, and others as designated.

² In accordance with reference (c), Marines involuntarily separated from active duty whose separation is characterized as honorable or general and who meet the criteria in paragraphs 1307.1 and 1307.2 of this Manual, except those excluded in paragraphs 1308 and 1309 of this Manual, are entitled to the full rate of separation pay. Enlisted Marines fully qualified for retention, but denied reenlistment or continuation on active duty due to established promotion or high-year tenure policies are eligible for full separation pay. It must be understood that due to manpower constraints, an individual Marine with an otherwise competitive record may be denied reenlistment due to lack of allocations in a particular skill or grade—Marines whose separation is characterized as honorable or general, and who are involuntarily separated from active duty through denial of reenlistment/continuation, or separation in lieu of board action, are eligible for half separation pay under the following specific conditions: Convenience of the Government.

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administrative separation from the Marine Corps and she willfully violated the Marine Corps Tattoo Policy 5 times over a two-year period and required a waiver of reenlistment prerequisites. Therefore, Petitioner's reenlistment denial was not unjust and she was correctly given half separation pay. Regarding Petitioner's request to add her dependents to her official record, the Board determined that Petitioner's dependents were acquired prior to her separation; therefore they should be added to her RED.

RECOMMENDATION

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

Petitioner's RED upon separation listed her spouse [REDACTED], and step children [REDACTED] born on 13 August 2006 and [REDACTED] born on 22 October 2011.

Note: Since the Petitioner has separated from the Marine Corps and the Marine Corps Total Force System (MCTFS)—integrated pay and personnel system for active duty and reserve Marines, and the authoritative source of data cannot be updated, a copy of this Report of Proceedings will be filed in Petitioner's naval record as the official correction that reflects said RED changes. No further action by HQMC will be required.

That part of the Petitioner's request for corrective action that exceeds the foregoing be denied.

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.

4/11/2022

[REDACTED]

Deputy Director

[REDACTED]