



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

[REDACTED]  
Docket No. 3473-22  
Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED]  
XXX-XX [REDACTED] USMC

Ref: (a) 10 U.S.C. § 1552  
(b) USD Memo, 25 Aug 17 (Kurta Memo)  
(c) USD Memo, 25 Jul 18 (Wilkie Memo)

Encl: (1) DD Form 149 w/attachments  
(2) BCNR Docket No: 5197-21, 10 Dec 21  
(3) DD Form 214, 23 Mar 22  
(4) DD Form 4/1, Enlistment/Reenlistment Document, 3 Sep 14  
(5) DD Form 4/1, Enlistment/Reenlistment Document, 24 Feb 18  
(6) FITREP, 20201001 – 20201231  
(7) FITREP, 20210101 – 20211231  
(8) NAVMC 321A (11-20), Agreement to Extend Enlistment, 24 Feb 22  
(9) NAVMC 118(11), Administrative Remarks, 2 Mar 22  
(10) Career Planner Noted, 2 Mar 22

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 his reenry code be changed from “RE-4” to “RE-3” or better.

2. The Board reviewed Petitioner’s allegations of error and injustice on 15 July 2022 and pursuant to its regulations, determined that the corrective action indicated below should be taken. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner’s naval record, and applicable statutes, regulations, and policies, to include references (b) and (c).

3. The Board, having reviewed all the facts of record pertaining to Petitioner’s allegations of error or 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. Petitioner enlisted in the Marine Corps and began a period of active duty on 1 November 2010, reenlisting on 3 September 2014 and again on 24 February 2018. During his third period of enlistment, Petitioner was the subject of a preliminary inquiry and command investigation. In

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a letter on Petitioner's behalf to this Board, Commanding Officer, [REDACTED], requested removal of a contested page 11 (6105) counselling entry which he had issued on 17 April 2020. Petitioner's CO stated that the facts uncovered by the investigation did not suggest that Petitioner had done anything illegal or improper, but that he had been advised "action was required to demonstrate final disposition of the matter even though he did not believe it was warranted." As a result, on 10 December 2021, the Board recommended removal of the page 11 (6105) counselling entry from Petitioner's record while he was still on active duty. At the time of his current petition to the Board, Petitioner's official military personnel file reflects that this counseling entry has been removed. See enclosures (2), (3), (4), and (5).

c. Petitioner's annual fitness report for the period covering the issue of the counseling entry documented that his reporting senior giving his highest recommendation for promotion and retention ahead of his peers. Likewise, Petitioner's reviewing officer stated—must promote and retain. Petitioner's subsequent annual fitness report for the period of 2021 reflected similar positive comments. Enclosures (6) and (7).

d. On 24 February 2022, Petitioner voluntarily extended his current enlistment for 1 month while his reenlistment request was pending. His career planner's records noted that he met all prerequisites for reenlistment but that retention had been disapproved by Headquarters Marine Corps and, on 2 March 2022, the Commandant of the Marine Corps (CMC) directed that a counseling entry to be made into Petitioner's record stating that he would be assigned an "RE-4" reentry code due to disapproval for retention. As a result, Petitioner was issued an "Honorable" characterization of service and discharged on 23 March 2022 for non-retention on active duty. See enclosures (3), (8), (9), and (10)

e. Petitioner contends that the assignment of an RE-4 code was an injustice in light of his overall record of service when considered together with the Board's previous review of his administrative counseling entry and the grant to remove that record. He expresses a desire that the requested relief of an "RE-3" reentry code or better will permit him a fair opportunity to enlist in another branch of service. In support of his contentions, he included a copy of his career planner's records pertaining to his denied reenlistment and a copy of the previous corrective action. See enclosure (1).

#### MAJORITY CONCLUSION:

After careful review and consideration of all of the evidence of record, the Majority of the Board determined that relief is warranted in the form of correcting Petitioner's discharge records to reflect a reentry code of "RE-3C."

In arriving at this conclusion, the Majority first determined that the corrective action requested in enclosure (1) would not have been ripe for consideration by the Board at the time of the request addressed by enclosure (2) specifically because Petitioner's request to reenlist had not been denied and his reentry code of "RE-4" had not been directed by CMC. Specifically, the Board noted that those adverse actions did not occur until after removal of the counseling entry had been effected pursuant to the Board's recommendation in enclosure (2). The Board expressly noted that its previous rationale for removing the administrative counseling entry relied upon the

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statement from Petitioner's CO affirming that the facts evidenced by the investigation "did not suggest that Petitioner had done anything illegal or improper" and that a corrective counseling was unwarranted. The Board acknowledged it lacked amplifying information regarding the original allegations which might otherwise be contained in the referenced preliminary inquiry or command investigation and, thus, available for review at the time CMC directed the "RE-4" code, however, the Board found that Petitioner's CO would have had intimate familiarity with the contents of those documents both at the time he issued the counseling entry as well as at the time he requested removal of that same entry. Further, the Board gave significant weight to Petitioner's overall excellent service record, devoid of any documented misconduct, and his expressed desire to seek enlistment in another branch of military service. To the extent that CMC determined that Petitioner is not qualified for reenlistment due to reasons not explicitly documented in his service record, the Board observed the ready ability of CMC to thoroughly review any future attempt by Petitioner to reenlist into the Marine Corps and, discretionarily, approve or deny such effort under a less restrictive reentry code of "RE-3C." Taking this consideration into account in addition to the totality of available, objective evidence of record, the Majority found the record insufficient to support the assignment of an "RE-4" code and determined that reentry code constitutes an injustice, especially because it otherwise prohibits Petitioner from seeking continued service in another branch of the Armed Forces when Petitioner's record does not support such an extreme prohibition. As a result, the Majority determined Petitioner's request merits relief.

#### MAJORITY RECOMMENDATION:

In view of the above, the Majority of the Board recommends that the following corrective action be taken on Petitioner's naval record:

That Petitioner be issued a Correction to DD Form 214 Certificate of Release or Discharge from Active Duty (DD Form 215) reflecting that his reentry code is "RE-3C."

That no further corrective action should be taken.

That a copy of this report of proceedings be filed in Petitioner's naval record.

#### MINORITY CONCLUSION:

The Minority of the Board found that Petitioner's request did not warrant relief. Although the Minority concurred with the Majority that Petitioner's record, as corrected after the removal of the 17 April 2020 counseling entry, does not reasonably support issuing an "RE-4" reentry code, the Minority questioned why Petitioner had not requested the current corrective action at the time of his initial application to the Board and expressed concern that successive applications for independent corrective action in light of earlier grants of relief might result in piecemeal action that could result in a larger overall grant of relief than might have been made if all corrective

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action was sought at the time of the initial request.<sup>1</sup> As are result, the Minority found the evidence insufficient to merit relief.

MINORITY RECOMMENDATION:

In view of the above, the Minority of the Board recommends that no corrective action be taken on Petitioner's naval record.

That a copy of this report of proceedings be filed in Petitioner's naval record.

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 titled matter.
5. The foregoing action of the Board is submitted for your review and action.

8/3/2022

[REDACTED]

Executive Director

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved MAJORITY Recommendation (Grant Relief)

Reviewed and Approved MINORITY Recommendation (Deny Relief)

8/9/2022

[REDACTED]

Acting Assistant General Counsel (M&RA)

Signed by: [REDACTED]

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<sup>1</sup> The Minority opinion did not account for the timing of action related to Petitioner's current request, which is subsequent in time to the previous corrective action by the Board and would not have been factually ripe for consideration at the time of the previous review.