



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

██████████
Docket No: 7484-22

Ref: Signature date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████
██████████ USMC

Ref: (a) 10 U.S.C. § 1552
(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)
(c) MCO 1040.31 of 8 Sep 10 (Enlisted Retention and Career Development Program)

Encl: (1) DD Form 149 w/ enclosures

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 reentry code be changed from "RE-3P" to "RE-1A." Enclosure (1) applies.

2. The Board, consisting of ██████████ and ██████████, reviewed Petitioner's allegations of error and injustice on 18 November 2022, and, pursuant to its regulations, determined that the corrective action indicated below should be taken. Documentary material considered by the Board consisted of Petitioner's application together with all material submitted in support thereof, relevant portions of Petitioner's naval record, applicable statutes, regulations, and policies, to include the references.

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. Petitioner enlisted in the Marine Corps with a medical waiver and began a period of active duty on 8 February 2016. He was counseled, in March of 2017, for failure to obey an order or regulation due to speeding, but has no other documented misconduct during his active duty service. He was also counseled twice that he was not recommended for promotion due to not completing the professional military education required for promotion to the next higher grade, but was recommended for promotion after making satisfactory progress.

c. On 24 April 2019, Petitioner was counseled for being assigned proficiency and conduct marks of 4.2/3.3 due to "failure to comply with established body composition standards while

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assigned to the Marine Corps body composition program [BCP].” During each of the following months, he was also counseled that he was not recommended for promotion to Sergeant due to physical fitness shortcomings. However, his record contains no other references to weight control or physical fitness issues in the following eight months prior to his “Honorable” discharge at the completion of his required active service on 7 February 2020.

d. Petitioner was assigned a reentry code of “RE-3P” in his Certificate of Discharge or Release from Active Duty (DD Form 214). Per reference (c), the code “RE-3P” may be assigned when a Marine fails to meet physical or medical standards, to include weight standards; however, the instruction specifies that a service record book (SRB) entry is required stating the reason for assignment.

e. Petitioner contends he was informed he would receive an RE-3P reentry code due to being out of weight standards at the time of his end of active service. Although he states he was advised that he “would have no problems” reenlisting and would just need to meet weight requirements, he “questioned [his] separation code which was then corrected” to his knowledge. He states that the code is unjust because, although he was not within height and weight standards, he “was never on BCP.” He is seeking to reenlist because he has received additional qualifications since his discharge and submits evidence that he is within standards.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner’s request warrants favorable action in the form of relief. The Board reviewed the application under the guidance provided in the references.

The Board noted that, despite his contention otherwise, Petitioner was assigned to BCP at some point prior to his 24 April 2019 counseling for unsatisfactory progress. However, in spite his command thoroughly documenting numerous counseling actions within his service records, there is no evidence that Petitioner was still assigned to BCP at the time of his discharge. In fact, the Board expressly noted that Petitioner’s record lacks any reference to either BCP or his weight in the 9 months prior to his discharge. Further, the Board found that, because Petitioner’s SRB lacks the entry required by the service’s own regulation, it is impossible to identify the basis for assignment of Petitioner’s RE-3P code. The Board observed that the rational purpose for the regulatory requirement of the SRB entry ensures that the reason for assignment of this restrictive code is identifiable at the time a former service member seeks reentry. In addition to finding that the failure to comply with the regulatory requirement constituted actual error, the Board also concluded that the effect of this error is prejudicial to Petitioner and, therefore, inequitable. Accordingly, the Board determined that it is in the interest of justice to grant the requested relief.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

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RECOMMENDATION:

That Petitioner be issued a Correction to Certificate of Release or Discharge from Active Duty (DD Form 215) indicating, for the period ending 7 February 2020, that his assigned reentry code in block 27 is "RE-1A" vice "RE-3P."

That no further changes be made to Petitioner's record.

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-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 Regulation, 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.

12/12/2022

[REDACTED]

Executive Director

[REDACTED]