



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

LCC:lc  
Docket No.4136-01  
2 October 2001

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

[REDACTED]

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

Encl: (1) DD Form 149 w/attachments  
(2) CMC memorandum 1000, MMEA of 24 August 2001  
(3) Appendix C, Marine Corps Enlisted Career Planning and Retention Manual  
(4) Petitioner's Microfiche

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 he was entitled to full separation pay when he was discharged from the Marine Corps on 21 November 2000.

2. The Board, consisting of Messrs. Geisler, Harrison, and Rothlein reviewed Petitioner's allegations of error and injustice on 25 September 2001 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 justice, finds as follows:

a. Petitioner was discharged from the Marine Corps on 21 November 2000. His DD Form 214 has a separation designator which indicates he was voluntary discharged. Petitioner maintains his discharge was involuntary and therefore he should be paid full separation pay.

b. Petitioner asserts that his request to reenlist was not processed properly by his command or Headquarters CMC, MMEA-6. The record shows that his request to reenlist was first submitted on 16 March 2000 with insufficient information. Headquarters CMC could not make a decision on the request without the additional

data and on 18 March 2000, MMEA-6 formally requested the additional data. MMEA-6 was then advised by Petitioner's command that Petitioner had withdrawn his request.

c. Petitioner submitted a second request for reenlistment on 5 April 2000. Again, the request was submitted without sufficient data to enable MMEA-6 to make a determination on Petitioner's eligibility to reenlist.

d. MMEA-6 again requested the information that it felt it needed. MMEA-6 received this information on 30 November 2000, 7 months after submission and 9 days after Petitioner had been discharged. Because the request was overtaken by events MMEA-6 did not process the request. The information requested from the unit by MMEA-6 were documents pertaining to a driving under the influence (DUI) offense which had occurred during Petitioner's last enlistment.

e. When Petitioner's unit discharged him it indicated on his DD Form 214, Report of Separation, that he was voluntarily discharged.

f. Petitioner responds that with over 11 years honorable service, he would not voluntarily take a discharge.

g. In correspondence attached as enclosure (2), the office having cognizance over the subject matter involved in Petitioner's application, has commented to the effect that the request does not have merit. CMC's position is that if Petitioner had truly wanted to reenlist he would have extended his enlistment until MMEA-6 made a decision on his request to reenlist.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding the comments contained in enclosure (2), the Board finds the existence of an injustice warranting the requested relief. In this connection, the Board finds that Petitioner made a request to reenlist and it had been submitted with enough lead time so that the processing should have been completed. The second request was submitted on 5 April 2000, which was approximately 7 1/2 months prior to his discharge. The unit had ample time to submit the documents required by MMEA-6 to process the request prior to Petitioner being discharged but did not do so. MMEA-6 also failed to put a suspense action on the request so that after a reasonable period of time it could follow up. Furthermore, experience has shown that when a Marine's contract is up CMC does not issue extensions while it decides whether or not to allow reenlistment. Additionally individual Marine commands have also refused to submit requests

for extensions for individuals in situations similar to Petitioner's. In accordance with Appendix C, enclosure (3), to the Marine Corps Enlisted Career Planning and Retention Manual Petitioner is entitled to one half separation. Petitioner had a DUI entry in his records, and marks of "B" and "C" on a fitness report, for the period 1 October 1998 through 31 March 1999. According to Appendix C anyone with marks of "B" or "C" and is involuntarily discharged is entitled to one half separation pay.

Accordingly, the Board recommends the following corrective action.


RECOMMENDATION:

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

a. Petitioner was authorized payment of one half separation pay when he was discharged from the Marine Corps on 21 November 2001. Petitioner was assigned a separation code of "JGH2", which is non-retention on active duty, vice "KBK1", which is completion of required active duty.

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.

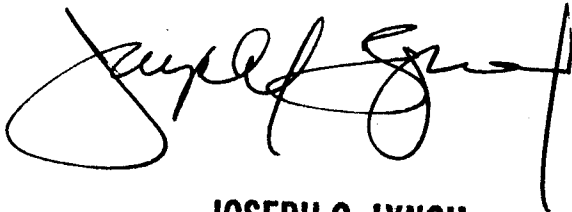
ROBERT D. ZSALMAN  
Recorder

  
G. L. ADAMS  
Acting Recorder

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

  
W. DEAN PFEIFFER  
Executive Director

Reviewed and approved:



**JOSEPH G. LYNCH**  
Assistant General Counsel  
(Manpower And Reserve Affairs)

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