



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

[REDACTED]  
Docket No. 9531-23  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]  
XXX XX [REDACTED] / [REDACTED] USMCR

Ref: (a) Title 10 U.S.C. § 1552  
(b) MCO 1900.16, 26 Nov 13  
(c) MARADMIN 047/20, 27 Jan 20

Encl: (1) DD Form 149 w/attachments  
(2) Advisory opinion by HQMC memo 1412 MMOA-2, 29 Mar 24  
(3) 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 his naval record be corrected to show Petitioner's end of active service (EAS) was 1 August 2023 vice 1 July 2023.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 28 May 2024 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. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. On 9 July 2006, Petitioner joined monitored command code [REDACTED] for training and transferred to the U.S. Marine Corps Reserve [REDACTED] on 18 August 2006.

b. On 23 May 2008, Petitioner joined [REDACTED] for training and transferred to the U.S. Marine Corps Reserve [REDACTED] on 3 July 2008.

c. On 6 June 2009, Petitioner signed a United States Marine Corps Appointment Acceptance and Record (NAVMC 763) in the U.S. Marine Corps as a Second Lieutenant under the PLCAVF program.

d. On 4 June 2012, Petitioner was joined to [REDACTED] for training.

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e. In accordance with reference (b), to prescribe policy and procedures for award of separation pay upon involuntary separation, discharge, or release from active duty, as authorized by reference (c) Title 10 U.S.C. (c) Title 10 U.S.C. Section 1174, and reference (z) DoDI 1332.29.

The phrase “involuntarily separated, discharged, or released from active duty” includes separation under conditions not adverse in nature wherein the Marine is released from active duty at any time prior to the completion of a stipulated period of active service or tour of active duty and not at the Marine’s own request, or denied reenlistment or extension on active duty. Examples include release due to RIF (Reduction In Force) or a failure of selection for promotion, and release of Reserve Marines not accepted for an additional tour of active duty for which they volunteered.

Separation pay will be paid to Marines involuntarily separated from active service and to those not accepted for an additional tour of active duty for which they volunteered.

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. The qualifying years for separation pay do not have to be continuous; however, the last phase of the qualifying term must be six continuous active-duty years and end immediately before the separation, discharge, or release.

Officers on the active-duty list must have completed at least six continuous years of active-duty service prior to separation to be eligible for full separation pay. The Marine must enter into a written agreement to serve in the Individual Ready Reserve for a period of not less than three years following separation from active duty.

f. On 4 February 2020, Both Petitioner and Counseling Officer signed an Administrative Remarks (NAVMC 118(11)) with the following remarks, “I have been counseled on the ramifications of continuation on active duty for a period of 36 months. I have read and understand sections 632, 637, and 1174 of Title 10, U.S. Code pertaining to failure of selection, continuation, and subsequent separation.”

g. On 18 May 2022, Both Petitioner and Senior Marine signed an Administrative Remarks (NAVMC 118(11)) with the following remarks, “I am being involuntarily separated from the U.S. Marine Corps effective 1 July 2023 and do desire a Reserve commission. I have been counseled per paragraph 5003 of MCO 1900.16. I understand if I elect to be considered for a Reserve commission it is not automatic and will be granted at the discretion of the Secretary of Defense.”

h. On 1 July 2023, Petitioner’s Reporting Senior signed Petitioner’s Fitness Report (NAVMC 10835A) for the period of 1 June 2022 to 1 July 2023 while he was an instructor pilot. Petitioner was recommended both for retention and promotion.

i. Petitioner was released from active duty with an honorable character of service and was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 4 June 2012 to 1 July 2023 due to intradepartmental transfer. Signed by authorized Official on 13 April 2023.

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j. On 2 July 2023, Petitioner signed a United States Marine Corps Appointment Acceptance and Record (NAVMC 763) in the U.S. Marine Corps Reserve as a Captain under the RES REG program.

k. In the advisory opinion, attached as enclosure (2), commented to the effect that the request has merit and warrants favorable action.

## 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. The Board agreed that in accordance with reference (c),<sup>1</sup> officers who accept continuation will incur a 36-month active-duty service extension with a mandatory separation or retirement (MSR) of 1 August 2023. The Board determined that Petitioner was improperly counseled to sign the page 11 entry listing his EAS as 1 July 2023 if he intended to receive Involuntary Separation Pay (ISP). In accordance with enclosure (2), officers with an MSR are automatically processed for separation by Headquarters, U.S. Marine Corps and a separation request is only required for officers on continuation when they desire to separate prior to the agreed continuation agreement. Petitioner's intent was to receive ISP and would not have chosen 1 July 2023 as his EAS if he believed that all continuation requirements had not been met.

## RECOMMENDATION

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

Petitioner was approved for Excess Leave for the period of 2 July 2023 to 1 August 2023.

Petitioner's DD Form 214 signed on 13 April 2023, block 12b (Separation date this period) listed 1 August 2023 vice 1 July 2023, block 26 (Separation code) listed JGB3 vice FGQ1, and block 28 (Narrative reason for separation) listed Non-Selection, Permanent Promotion vice Intradepartmental Transfer. Note: That any other entries affected by the Board's recommendation be corrected.

Petitioner was authorized payment of "full" ISP when he was released from active duty on 1 August 2023. Note: the separation pay described above will be offset by any Veterans Disability Compensation to which Petitioner is or becomes entitled.

Finally, the Defense Finance and Accounting Service will complete an audit of Petitioner's pay records to determine Petitioner's pay entitlements.

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

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<sup>1</sup> Reference (c), this MARADMIN initiates notification of, and establishes procedures for, those aviators who have been selected for continuation on active duty after being twice passed for selection to Major. Officers who accept continuation will incur a 36-month active-duty service extension beginning 1 August 2020 and ending 1 August 2023. This continuation period will run concurrently with, not in Place of, any existing obligation. Officers selected for continuation are considered to have accepted the offer of continuation if no action is taken by 2359 EST, 29 February 2020. These officers will retain the MSR of 1 August 2023. Affected officers shall communicate their intent to accept or decline continuation to their monitor.

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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.

5/30/2024

[REDACTED]