



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

██████████  
Docket No. 9983-23  
Ref: Signature Date

████████████████████  
████████████████████  
████████████████████

Dear ██████████,

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 13 June 2024. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies. In addition, the Board considered the advisory opinion contained in Headquarters, U. S. Marine Corps memorandum 7200 RFF of 9 April 2024, which was previously provided to you for comment.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

On 17 December 2009, you reenlisted for 5 years and 9 months with an end of current contract of 16 September 2015 for the following incentives: Selective Retention Bonus (SRB) Zone A in the amount of \$41,000.

On 7 February 2014, The Commanding Officer, ██████████ 67 notified you that, “[y]ou are hereby notified that I intend to recommend to the Commanding General, ██████████, that you be discharged from the U. S. Marine Corps per paragraph 6215 of the reference based on Weight Control Failure.

The basis for this recommendation is due to your failure to conform to Marine Corps height and weight standards for a second time following two official Body Composition Program (BCP) assignments. You were formally assigned to your first BCP assignment on 21 December 2009. You were then removed on 13 July 2010, for getting within height and weight standards. On 7 March 2013, you were assigned to your second BCP assignment. On 6 September 2013 during your six month weigh-in, you once again failed to meet the Marine Corps height and weight standards. As a result, you are being recommended for administrative separation for Weight Control Failure.

The least favorable characterization of service which you may receive is General (Under Honorable Conditions) characterization of service. Although the Commanding General, ██████████, will make the determination of characterization if you are separated, I am recommending you receive a General (Under Honorable Conditions) characterization of service.”

You were advised of your rights and required to respond in writing to this notice no later than 1630 on 7 February 2014 by completing and returning the enclosed Acknowledgment of Respondent's Rights.

On 13 February 2014, you notified The Commanding Officer, ██████████, “I understand that I am being recommended for separation with a General (Under Honorable Conditions) characterization of service and that the least favorable characterization which I may receive is a General (Under Honorable Conditions) characterization of service.”

You initialed the following: “I understand that if I am separated before I complete an active-duty service requirement incurred because I received advance education assistance, bonuses, or special pays, I may be required to reimburse the U.S. government on a pro rata basis for the unserved portion of the active service requirement.”

On 28 April 2014, The Commanding Officer, ██████████, notified Commanding General, ██████████ via Commanding Officer, ██████████ of First endorsement on your letter, dated 21 April 2014. “Forwarded with negative recommendation on acceptance of waiver of Administrative Discharge Board. [You have] failed to maintain height/weight and body composition standards per MCO 6110.3 and did not make any progress to meeting these standards during his six-month assignment to the Body Composition Program (BCP). [You have] gained 15 additional pounds above [your] initial BCP assignment weight, which clearly demonstrates unsatisfactory performance and a lack of self-discipline. My recommendation for separation with a General (under honorable conditions) characterization of service stands as originally submitted.”

On 20 May 2014, Commanding ██████████ via Third Endorsement on your letter 1920 of 21 April 2014 that “Readdressed and forwarded. Pursuant to paragraph 6110(3) of reference (b) [MCO 1900.16 MARCORSEPMAN], I have reviewed all medical documentation and have determined that PTSD/TBI were not contributing factors for the basis of separation.

I hereby find the allegations in the notification of the basis for separation to be substantiated by a preponderance of evidence.

The Commanding Officer, ██████████, is hereby directed to take action within 10 days of the date of this endorsement and separate the respondent with Honorable conditions discharge by reason of Weight Control Failure pursuant to paragraph 6215 of reference (b) [MCO 1900.16 MARCORSEPMAN]. Assign separation program designator HCR1 and re-enlistment code RE-32. Ensure a physical examination is conducted prior to separation.”

On 15 August 2014, your Reporting Senior signed Petitioner’s adverse not observed USMC Fitness Report (NAVMC 10835A) for the period of 1 April 2014 to 29 May 2014 while he was an H-1 Mechanic with the following section I remarks: “Directed Comment, Sect A, Item 8F: Adverse because body fat is over the maximum limit for age. This is a not observed report due to insufficient observation time and SNM did not sign FITREP due to processing out of the Marine Corps.”

You were discharged with an honorable character of service and were issued a DD Form 214, Certificate of Release or Discharge from Active Duty for the period of 5 September 2006 to 29 May 2014 due to weight control failure.

On 18 May 2022, U.S. Department of the Treasury notified you that “[t]he attached documentation is being forwarded as a result of your request for detailed debt information.” The Defense Finance and Accounting Service (DFAS) report listed a letter date of 8 October 2014 in the amount of \$10,192.42 with the following remarks: “Recoupment is required for the unearned portion of your enlistment or reenlistment bonus.”

You requested that the Board overturn the debt owed, the Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that you were separated from the U.S. Marine Corps due to weight control failure. The Board could find no evidence in your application package or your naval record that your separation was erroneous or unjust. You did not complete the service obligation you incurred when you accepted your SRB, therefore you are required to repay the unearned portion of the bonus paid. In accordance with DOD 7000.14-R FMR Volume 7a, Chapter 2,<sup>1</sup> when the conditions of a written agreement are not fulfilled and

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<sup>1</sup> In accordance with DOD 7000.14-R FMR Volume 7a, Chapter 2, Conditions Under Which Repayment Will Be Sought. When the conditions of a written agreement are not fulfilled and repayment is determined appropriate, the member will be required to repay the United States the unearned portion of a pay or benefit. In cases other than death of a member, the Secretary of the Military Department concerned will advise DFAS of the disposition of any unearned portion of a pay or benefit. If a member under a written agreement for a pay or benefit does not fulfill the service conditions for the pay or benefit under any other circumstances and then repayment of the unearned portion of the pay or benefit will be sought, unless the Secretary of the Military Department concerned, at some point in the process makes a case-by-case determination that to require repayment of an unearned portion of the pay or benefit would be contrary to a personnel policy or management objective, against equity or good conscience, or contrary to the best interest of the United States and any unpaid portion of the bonus, special pay, or student loan repayment under 10 U.S.C. or 37 U.S.C. will not be paid unless the Secretary of the Military Department concerned, at some point in the process, makes a case-by-case determination that to refrain from paying an unpaid portion of the pay, benefit, or student loan would be contrary to a personnel policy or management objective, against equity or good conscience, or contrary to the best interest of the United States.

repayment is determined appropriate, the member will be required to repay the United States the unearned portion of a pay or benefit. The Board determined that no change to your record is warranted. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

6/24/2024

