



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

██████████
Docket No. 2652-24
Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. § 1552
(b) USECDEF Memo of 25 Jul 18 (Wilkie Memo)
(c) MCO 1900.16F of 30 May 01 (MARCORSEPMAN)

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 correction of his date of discharge from the Marine Corps Reserve. Enclosure (1) applies.
2. The Board, consisting of ██████████, and ██████████, reviewed Petitioner's allegations of error on 19 April 2024, 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 reference (b).
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegation of error, 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. Although Petitioner's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.
 - b. Petitioner enlisted in the Marine Corps Reserve and served a period of initial required active duty for training from 27 December 1995 through 31 May 1996. Following his Honorable discharge from active duty, he served in a drilling status.
 - c. On 2 November 2001, Petitioner submitted a DD Form 368, Request for Conditional Release, requesting release from the Marine Corps Reserve to accept an appointment in the U.S.

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Army. This request was approved and remained valid until 7 January 2002, pending his acceptance of said appointment.¹

d. Petitioner's last documented drill date was 4 November 2001, and the end of his mandatory drill was identified as 26 December 2001.

e. On 5 December 2001, Chief, Judge Advocate Recruiting Office, U.S. Army, submitted a memorandum to Total Army Personnel Command (TAPC) requesting orders for Petitioner to be appointed to the grade of 1LT, relieved from his assignment in the Marine Corps Reserve with three years entry grade credit effective 8 January 2002, and placed on the active duty list with a date of rank determined in accordance with AR 624-100.²

f. On 14 December 2001, TAPC issued Petitioner orders to report to his initial temporary duty station on 8 January 2001.

g. Petitioner executed his acceptance of his appointment and oath of office as a reserve commissioned officer in the grade of 1LT in the U.S. Army on 5 January 2001, as documented in his DA Form 71, Oath of Office.

h. Petitioner was issued an Honorable Discharge certificate from the U.S. Marine Corps dated 16 August 2003.³

i. Petitioner's initial application to the Board requested correction of his date of discharge from the Marine Corps to 7 January 2002, for which he submitted a copy of his conditional release from the Marine Corps and records of his initial orders from the Army, but without documentation of the date he accepted his appointment as an Army commissioned officer. Additionally, Petitioner provided evidence of his pending separation and retirement from the U.S. Army, planned for August of 2024. Petitioner contends that his efforts to affect his retirement have been impeded due to his erroneous date of discharge from the Marine Corps reserve, which has resulted in periods of overlapping service. The Board considered his request on 9 February 2024 and denied relief due to insufficient verifiable evidence of his date of acceptance of his commission and transfer into the Army. However, the Board favorably

¹ Of note, the Marine Corps' authorizing official for this request is identified as the company commander of Petitioner's reserve unit. Reference (c) specifies that Commander, Marine Corps Forces Reserve, is the approval authority for non-active reserve enlisted personnel.

² Per AR 624-100, the active duty date of rank (ADOR) of an officer receiving an original appointment as a reserve Army commissioned officer is the date the appointment is accepted unless the appointee was, at the time of appointment, a Reserve officer or received entry grade credit under 10 U.S.C. 533, in which case the ADOR will be backdated to the extent that the entry grade credit awarded exceeds that required for the officer's appointment grade.

³ Paragraph 6403 of reference (c) specifies that a Marine Corps reservist on inactive duty will be discharged for enlistment in the Regular Army effective the day before the date of such enlistment and paragraph 6404 specifies that an active duty Marine may be separated to accept an appointment in any branch of the Armed Forces after receipt of certification from the gaining Service that the Marine has been selected to accept an appointment or commission. However, the reference does not specify procedures for separating an enlisted Marine Reserve member to accept a commission in another branch of service.

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determined that a timely request for reconsideration from Petitioner, with definitive evidence of his date of appointment and commission, would warrant expedited reconsideration.

j. Seeking reconsideration, Petitioner has included a copy of his Oath of Office, dated 5 January 2002, and now contends that his correct date of discharge should be 4 January 2002; the day before his acceptance of his appointment and commission.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants relief. The Board reviewed the application under the guidance provided in references (b) and (c).

In this regard, the Board found that Petitioner has provided evidence of his approved release from the Marine Corps Reserve and definitive evidence of his acceptance of an appointment and commission as an officer in the U.S. Army, effective 5 January 2002. Upon consideration of this evidence, the Board concluded that the date of 16 August 2003 recorded in Petitioner's DD 256 MC, Honorable Discharge Certificate, is erroneous. Additionally, the Board noted that Petitioner's Marine Corps Official Military Personnel File (OMPF) lacks the requisite administrative remarks to document his date of discharge from the Marine Corps Reserve. Accordingly, the Board determined that Petitioner's request warrants relief to correct this error and that such relief should be administratively expedited to the extent practicable to prevent potential prejudice to Petitioner's pending retirement.

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

RECOMMENDATION:

That Petitioner be issued new Honorable Discharge Certificate, DD 256 MC, reflecting his Honorable discharge on 4 January 2002.

That record of Petitioner's Honorable discharge from the Marine Corps Reserve on 4 January 2002 be documented in his OMPF via an appropriate Administrative Remarks, NAVMC 118(11), entry.

That action upon these corrections be administratively expedited to the extent practicable.

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.

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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.

5/14/2024

