



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

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Docket No: 2823-24  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █  
XXX XX █/█ USMC

Ref: (a) 10 U.S.C. § 1552  
(b) MCO 1900.16, Separation and Retirement Manual (Short Title:  
MARCORSEPMAN), 15 Feb 19

- Encl:
- (1) DD Form 149
  - (2) SECDEF Memo, subj: Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members, 24 Aug 21
  - (3) ALNAV 062/21, subj: 2021-2022 Department of the Navy Mandatory COVID-19 Vaccination Policy, dtg 302126Z AUG 21
  - (4) MARADMIN 462/21, subj: Mandatory COVID-19 Vaccination of Marine Corps Active and Reserve Components, dtg 011400Z SEP 21
  - (5) CO, █ 1900 CO Memo, subj: Notification of Separation Proceedings (Board Case), 1 Apr 22
  - (6) MARADMIN 533/21, subj: Supplemental Guidance to Mandatory COVID-19 Vaccination of Marine Corps Active and Reserve Components, dtg 061806Z OCT 21
  - (7) MARADMIN 612/21, subj: Supplemental Guidance (2) to Mandatory COVID-19 Vaccination of Marine Corps Active and Reserve Components, dtg 222100Z OCT 21
  - (8) NAVMC 118(11) dated 7 Apr 22
  - (9) MARADMIN 464/22, subj: Interim Guidance Regarding Marines Requesting Religious Accommodation from COVID-19 Vaccination Requirements, dtg 132100Z SEP 22
  - (10) NAVMC 118(11) dated 21 Sep 22
  - (11) NAVMC 321A (11-20) dated 22 Sep 22
  - (12) SECDEF Memo, subj: Rescission of Aug 24, 2021 and Nov 30, 2021 Coronavirus Disease 2019 Vaccination Requirements for Members of the Armed Forces, 10 Jan 23
  - (13) MARADMIN 025/23, subj: Rescission of COVID-19 Vaccination Requirement, dtg 181130Z JAN 23
  - (14) ALNAV 009/23, subj: Rescission of COVID-19 Vaccination Requirement for Members of the Armed Forces, dtg 201839Z JAN 23
  - (15) MARADMIN 109/23, subj: Update to Mandatory COVID-19 Vaccination Requirement of Marine Corps Active and Reserve Components, dtg 272000Z FEB 23

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, hereinafter referred to as the Board,

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requesting removal of COVID-19 related material, specifically an Administrative Remarks (Page 11) entry dated 7 April 2022.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 9 May 2024, and pursuant to its regulations, determined 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 records, and applicable statutes, regulations, and policies.

3. Having reviewed all of the evidence of record pertaining to Petitioner's allegations of error or injustice, the Board found 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 (DON).

b. By memorandum dated 24 August 2021, the Secretary of Defense (SECDEF) mandated that all members of the Armed Forces under Department of Defense authority be fully vaccinated against the COVID-19 virus with a vaccine receiving full licensure from the Food and Drug Administration (FDA).<sup>1</sup> Accordingly, he directed the Service Secretaries to immediately begin full vaccination of all Service members of their respective services. See enclosure (2).

c. On 30 August 2021, the Secretary of the Navy (SECNAV) implemented the SECDEF's directive referenced in paragraph 3b above in ALNAV 062/21, ordering all DON active duty Service Members who were not already vaccinated or exempted to be fully vaccinated within 90 days, and all Reserve Component Service Members to be fully vaccinated within 120 days with an FDA-approved COVID-19 vaccination. In issuing this directive, SECNAV made the following statement:

The order to obtain full vaccination is a lawful order, and failure to comply is punishable as a violation of a lawful order under Article 92, Uniform Code of Military Justice, and may result in punitive or adverse administrative action or both. The Chief of Naval Operations and Commandant of the Marine Corps have authority to exercise the full range of administrative and disciplinary actions to hold non-exempt Service Members appropriately accountable. This may include, but is not limited to, removal of qualification for advancement, promotions, reenlistment, or continuation, consistent with existing regulations, or otherwise considering vaccination status in personnel actions as appropriate.

See enclosure (3).

d. On 1 September 2021, the Marine Corps published MARADMIN 462/21 to implement the COVID-19 vaccination mandates referenced in paragraphs 3b and 3c above. Specifically, MARADMIN 462/21 directed all Marine Corps Active and Reserve Component Service Members to be fully vaccinated against COVID-19, unless medically or administratively exempt. All non-exempt Active Component Marines were to achieve full vaccination no later than 28 November 2021,<sup>2</sup> while all non-exempt Reserve Component Marines were to achieve full vaccination no later

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<sup>1</sup> A Service member was considered to be fully vaccinated two weeks after completing the second dose of a two-dose COVID-19 vaccine, or two weeks after receiving a single dose of a one-dose vaccine.

<sup>2</sup> This date was 90 days from issuance of ALNAV 062/21 (see paragraph 3c above).

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than 28 December 2021.<sup>3</sup> MARADMIN 462/21 further specified that this mandate “constitutes a lawful general order and any violations of these provisions is punishable as a violation of Article 92 of [the UCMJ].” It further provided that initial disposition authority for cases arising from refusal of this order is withheld to the general court-martial convening authority level, “except that administrative counseling pursuant to paragraph 6105 of [reference (b)] may be used at the special court-martial convening authority level.” See enclosure (4).

e. On 14 September 2021, Petitioner submitted a request for religious accommodation. See enclosure (5)<sup>4</sup>.

f. On 7 October 2021, the Marine Corps published MARADMIN 533/21 to supplement the guidance of MARADMIN 462/21 referenced in paragraph 3d above. This message specified that “[i]n order to meet Commandant-directed deadlines as stated in [MARADMIN 462/21], all Active Component Service Members must receive their first dose of Pfizer-BioNTech/ COMIRNATY vaccine no later than 24 October 2021 and all Reserve Component Service Members must receive their first dose no later than 24 November 2021.” It further specified that all Active Component Marines must receive their second dose no later than 14 November 2021, while all Reserve Component Marines must receive their second dose no later than 14 December 2021. The message also provided guidance for recording vaccine refusals in the Medical Readiness Reporting System and advised that adverse administrative or judicial proceedings may be initiated in accordance with the authorities delineated in MARADMIN 462/21 when a Marine has refused to take the vaccine, and that “[t]here is no requirement to delay action until the deadlines established in [MARADMIN 462/21].” See enclosure (6).

g. On 23 October 2021, the Marine Corps published MARADMIN 612/21 to further supplement the guidance of MARADMIN 462/21 referenced in paragraph 3d above. This message provided guidance that “Marines refusing the COVID-19 vaccination, absent an approved administrative or medical exemption, religious accommodation, or pending appeal shall be processed for administrative separation.” It further clarified that, in most cases, Marines will be ordered to begin the vaccination process before the deadlines established in MARADMIN 462/21, and that a Marine is considered to have “refused the vaccine” when they do not have an approved administrative or medical exemption, religious accommodation, or pending appeal, and they (1) received and willfully disobeyed a lawful order from a superior commissioned officer to be vaccinated against COVID-19; or (2) they are not or will not be fully vaccinated by the deadline established in MARADMIN 462/21. Finally, this message established restrictions upon the assignments available to, ability to reenlist or execute assignment for, authority to promote, and separation benefits available to Marines who have refused the vaccine, and authorized the temporary reassignment of such unvaccinated Marines based upon operational readiness or mission requirements. See enclosure (7).

h. Petitioner’s request for religious accommodation was formally denied on 26 October 2021. Following the denial, he appealed the decision on 4 November 2021. Petitioner’s appeal was denied on 14 March 2022. Subsequently, on 21 March 2022, Commanding Officer (CO), [REDACTED], issued Petitioner a lawful order to be fully vaccinated by 8 April 2022. Petitioner refused the order<sup>5</sup>. See enclosure (5).

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<sup>3</sup> This date was 120 days from issuance of ALNAV 062/21 (see paragraph 3c above).

<sup>4</sup> Information derived from enclosure (5); a document submitted by Petitioner but no longer available in his OMPF.

<sup>5</sup> Information derived from enclosure (5); a document submitted by Petitioner but no longer available in his OMPF.

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i. On 1 April 2022, CO, [REDACTED], notified Petitioner of his intention to recommend Commander, [REDACTED], discharge Petitioner with a general (under honorable conditions) characterization of service by reason of misconduct due to commission of a serious offense. See enclosure (5).

j. On 7 April 2022, Petitioner was issued a Page 11 acknowledging his understanding he was eligible for but not recommend for promotion to Gunnery Sergeant “due to pending administrative separation...” Although Petitioner indicated his intention to submit a rebuttal statement, a statement is not filed with the Page 11 entry. See enclosure (8).

k. On 18 August 2022, a U.S. Federal District Court issued a preliminary injunction prohibiting the Marine Corps from “taking certain actions against Marines.” In response, on 14 September 2022, the Marine Corps published MARADMIN 464/22 amending the actions for unvaccinated Marines on active duty or in the Ready Reserve who had requested a religious accommodation, which had been disapproved by the DC (M&RA), then appealed the disapproval to the ACMC in a timely manner. If the ACMC had neither denied the appeal nor taken action on the appeal, commanders were directed, among other things, to pause all administrative actions related to the involuntary separation, regardless of the current status of separation process. See enclosure (9).

l. On 21 September 2022, pursuant to MARADMIN 464/22, Petitioner signed a Page 11 entry indicating he voluntarily agreed to extend a period of 12 months. Further, he acknowledged that “upon approval of [his] extension, [he] may be subject to actions directed in MARADMIN 612/21, including administrative separation, if [he] no longer [met] the criteria to be a class member or if the preliminary injunction [was] dissolved.” See enclosure (10).

m. On 22 September 2022, Petitioner executed an agreement to extend his enlistment 12 months “to await further guidance regarding Marines requesting religious accommodation from COVID-19 vaccination requirements.” See enclosure (11).

n. On 23 December 2022, the James M. Inhofe National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2023 was enacted. Section 525 of the FY 2023 NDAA directed the SECDEF to rescind the vaccination mandate referenced in paragraph 3b above. See enclosure (12).

o. By memorandum dated 10 January 2023, the SECDEF rescinded the vaccine mandate referenced in paragraph 3b above in accordance with the FY 2023 NDAA. He also directed the military departments to update the records of individuals currently serving in the Armed Forces who sought an accommodation to the vaccine mandate on religious, administrative, or medical grounds “to remove any adverse actions solely associated with denials of such requests, including letters of reprimand.” No such directive was included for those Service Members who did not seek an accommodation to the vaccine mandate on religious, administrative, or medical grounds. See enclosure (12).

p. On 18 January 2023, the Marine Corps published MARADMIN 025/23, rescinding MARADMINs 462/21, 533/21, 612/12, and other MARADMINs related to the former vaccination mandate, and directing the immediate suspension of any new adverse administrative actions associated with refusal of the COVID-19 vaccine. See enclosure (13).

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q. On 20 January 2023, the SECNAV published ALNAV 009/23, cancelling ALNAV 062/21. See enclosure (14).

r. On 28 February 2023, the Marine Corps published MARADMIN 109/23 to provide further guidance regarding the rescission of the former vaccine mandate. Amongst the guidance provided was that the Deputy Commandant for Manpower and Reserve Affairs (DC M&RA) would “direct an audit to search for adverse information in the [official military personnel files (OMPF)] of all currently serving members *who requested religious accommodations to the COVID-19 vaccine mandate (emphasis added)*,” and that such adverse matters would be removed as necessary in accordance with the SECDEF’s guidance referenced in paragraph 3k above. MARADMIN 109/23 also provided that “Marines who submitted requests for a medical or administrative exemption may submit written requests to the DC M&RA, through their chain of command, requesting removal of adverse material from their OMPF,” and that “[s]eparated Marines may petition the [Board] to request removal of adverse matters.” No provisions were discussed, however, for adverse matters pertaining to refusal of the COVID-19 vaccine mandate in the records of currently serving Marines who did not request a religious accommodation or an exemption for medical or administrative reasons. See enclosure (15).

s. Petitioner contends the Page 11 entry should be removed because it was “endorsed and submitted by the command as a result of [his] refusal to comply with the COVID-19 vaccination mandate.” See enclosure (1).

## CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board determined that equitable relief is warranted in the interests of justice.

The Board found no error in the issuance and filing of the Administrative Remarks (Page 11) entry dated 7 April 2022, Petitioner requested be removed, nor the Page 11 dated 21 September 2022, identified by the Board as an adverse COVID-19 related document. These entries were issued due to the initiation of Administrative Separation proceedings on 1 April 2022 and/or pursuant to MARADMIN 464/22. Despite finding no error in the issuance and filing of the Page 11 entries at issue, the Board found that equitable relief is warranted in the interests of justice. The Board noted the adverse matters Petitioner submitted as supporting documentation (see enclosure (5)), have been removed from Petitioner’s record pursuant to the directive of MARADMIN 109/23. Although neither of the Page 11 entries explicitly mention refusal of the COVID-19 vaccination and therefore were evidently not deemed “adverse” during the MARADMIN 109/23 required audit of currently serving members who requested religious accommodation, the Board agreed with Petitioner’s argument that these documents were “endorsed and submitted by the command as a result of [his] refusal to comply with the COVID-19 vaccination mandate.” Accordingly, the Board believed that the interests of justice, and the best interests of the Marine Corps, warranted granting Petitioner a “clean slate” so that his career progression is not hindered by the adverse information in his record.

Additionally, the Board noted enclosure (11), Petitioner’s agreement to extend his reenlistment, also discloses his request for religious accommodation and refusal to be vaccinated. In the interests of justice, the Board concluded the language referring to COVID-19 vaccination requirements should be redacted.

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## RECOMMENDATION

In view of the above, the Board recommends the following corrective action be taken on Petitioner's naval record in the interests of justice:

That the Administrative Remarks (Page 11) entries dated 7 April 2022 and 21 September 2022 be removed from Petitioner's naval record.

The following language in block 12 of enclosure (11) be redacted: "regarding Marines requesting religious accommodation from COVID-19 vaccination requirements." The block 12 entry should read: "Purpose: To await further guidance."

That Petitioner's naval record be scrubbed for any other material or entries referencing his refusal to abide by the former COVID-19 vaccination mandate, and that any such materials or entries be removed. This includes, but is not limited to, all information systems or database entries that may reference or indicate Petitioner's refusal to abide by the vaccination mandate.

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.

7/31/2024

