



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

██████████
Docket No. 2966-24

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF FORMER MEMBER ██████████
XXX XX ██████████ USMC

Ref: (a) 10 U.S.C. § 1552
(b) MARCORSEPMAN P1900.16A, Marine Corps Separations and Retirements Manual
(28 June 1972)

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 that his record be corrected to ensure that he was issued the correct separation code consistent with his narrative reason for separation.
2. The Board, consisting of ██████████, ██████████, and ██████████, reviewed Petitioner's allegations of error and injustice on 9 August 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 allegations of error and injustice, 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 and began a period of active duty on 29 September 1976.
 - c. Within his first two weeks of active duty service, Petitioner was referred for a psychiatric evaluation due to his poor performance as a recruit.

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d. On 14 October 1976, Petitioner was found to have no incapacitating physical or mental disability but was medically diagnosed as unsuitable for military service. He was noted to have been a training failure who could not meet standards due to apathy, defective attitude, want of readiness or skill, and an inability to expend effort constructively. Although additional concerns regarding previously undisclosed pre-service drug use and potential fraudulent enlistment were documented, those bases do not appear to have been considered further.

e. On 18 October 1976, Petitioner was notified by Commanding Officer, [REDACTED], that he was proposed for administrative discharge under the provisions of paragraph 6016.1d of reference (b) for the reason of unsuitability, with an asterisked annotation of “defective attitude.”

f. A supplemental information page noted that Petitioner had nine years of education and had demonstrated disqualifying traits of: fails to display motivation, lacks self-discipline, slow learner, and very immature. The battalion commander’s evaluation noted that Petitioner had a defective attitude and was emotionally unstable, with a specific remark that Petitioner was a “mentally slow individual with an extensive history of juvenile delinquency;” it recommended that he appear before a depot aptitude board for final evaluation.

g. An Aptitude Board Report was issued on 20 October 1976 documenting that Petitioner’s general qualifications did not warrant retention. The accompanying recommendation noted that Petitioner appeared before the Aptitude Board and “believes that he failed recruit training because he is not physically or mentally able to deal with [recruit training] and does not desire to return to the training program.”

h. The Aptitude Board recommended that Petitioner be “discharged for unsuitability under para. 6061.1d of [reference (b)]. If retained he would eventually become an administrative burden and a training problem.”

i. The Aptitude Board further recommended that Petitioner be issued an “RE-4” reentry code but an “Honorable Discharge” because he enlisted in good faith, tried to the best of his ability and maintained a good disciplinary record during training.” Finally, the Board confirmed that Petitioner had no mental or physical disability which would warrant discharge by reason of physical disability.

j. Petitioner was honorably discharged on 22 October 1976 with a reentry code of “RE-3F” and a total of 24 days of active service. Block 9c of his Report of Separation from Active Duty (DD Form 214) listed the “Authority and Reason” for his separation as a separation code of “JMJI” and did not list the actual separation authority or narrative reason for separation. The STATE DIR SS copy (page 4) listed no information in block 9c but included a Remark of “APATHY” in block 27.

k. Paragraph 6016.1 of reference (c) governs discharges for unsuitability. It includes multiple subparagraphs, with bases identified follows: a. Inaptitude, b. Enuresis, c. Character and behavior disorders, d. Financial irresponsibility, e. Apathy, defective attitudes, inability to

expend effort constructively, obesity, f. Alcoholism, g. Homosexuality or other aberrant sexual tendencies.

l. Subparagraph 6016.1a clarifies that inaptitude applies to those Marines who are best described is inapt due to lack of general adaptability, want of readiness or skill, unhandiness, or inability to learn.

m. Subparagraph 6016.1d, which is the authority referenced twice in Petitioner's service records as that used for the basis of his administrative separation, contemplates that the financial irresponsibility on the part of the Marine clearly demonstrates that he is unqualified for retention.

n. Subparagraph 6016.1e references a significant observable defect, apparently beyond the control of the Marine, elsewhere not readily describable.

o. Reference (b) requires, for all three above listed bases, that the member be counseled and afforded a reasonable opportunity to overcome deficiencies.

p. As of the 1978 update to reference (b), published as MARCORSEPMAN P1900.16B, subparagraph 6016.1d referred to the basis of unsuitability for apathy, whereas the basis of financial irresponsibility had been adjusted to subparagraph 6016.1c.

q. At least two different, available copies of excerpts of the table in Chapter 11 of reference (b) provide a listing of separation codes used for the basis in the 1972 reference. These excerpts, however, include the separation codes under either paragraph 11001 or paragraph 11003, indicating that at least one or more changes to the instruction were issued between the initial publication of reference (b) and the publication of the new instruction in 1978, in which the change identified in paragraph 3p above was fully incorporated. One available version of the table in reference (b), the one in which subparagraph 6016.1d refers to the basis of financial mismanagement, contains redacted separation codes in paragraph 11001. Another version of this table is available as an excerpted copy from Chapter 11 and identifies a separation code of JMJ for the basis of unsuitability due to apathy; this excerpt references subparagraph 6016.1d as the regulatory authority. Given the change incorporated into the 1978 update to reference (b), wherein subparagraph 6016.1d refers to the basis of Apathy, it stands to reason that the table from paragraph 11001 is the older version of reference (b) and that the change which resulted in moving the separation codes into paragraph 11003 occurred at some time between publication of the 1972 instruction and publication of the 1978 update.

r. Petitioner contends that the separation code of "JMJI" in his discharge record does not exist or is incorrect and is therefore an error. He believes the correct code should be "JFB1" to reflect an Honorable discharge for medical reasons. He also claims that the Department of Veterans Affairs (VA) has told him this code does not exist, although he did not submit supporting evidence of his claim regarding the VA determination that his SPD code does not exist.

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CONCLUSION:

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

In this regard, the Board noted that Petitioner appears to have been issued a separation code consistent with the basis of unsuitability due to apathy. The Board found no evidence to support that Petitioner's discharge was for medical reasons. In fact, the report of the Aptitude Board expressly stated that Petitioner had no mental or physical disability which would warrant discharge by reason of physical disability.

With respect to the information documented in his discharge record, the Board noted that one copy of his DD Form 214 contains no reference to separation authority or code, but specifically states "APATHY" in the remarks, while another copy references no separation authority but includes "JMJI" as the separation code. However, although the Board noted that reference (b) contains a table which identifies JMJI as the separation code for unsuitability due to apathy, the table that identifies this separation code also refers to subparagraph 6016.1e of reference (b) as the authority for issuing this code. Meanwhile, although the official documents relating to Petitioner's administrative separation processing appear to heavily refer to unsuitability due to apathy, the specific authority referenced for his discharge is subparagraph 6016.1d, which reference (b) indicates as being financial irresponsibility, absent confirmation of the precise date when this subparagraph was changed. Additionally, in the course of processing Petitioner's discharge for general unsuitability, and although Petitioner appears have been recognized as a "slow learner," the Board observed that Petitioner's Aptitude Board determined that he had "tried to the best of his ability" and should therefore be recommended for an Honorable discharge. In light of this finding by the Aptitude Board, in conjunction with the referenced authority of subparagraph 6016.1d of reference (b), as well as the apparent disconnect between the table of separation codes in contrast to the published guidance regarding the reasons for separation, the Board found sufficient basis to identify a lack of clarity regarding the specific narrative reason for separation and separation code applicable to Petitioner's discharge. However, the Board found insufficient evidence to determine that the "JMJI" separation code "does not exist" as alleged by Petitioner, who provided no evidence that the VA had, in fact, informed him that this code does not exist, and would run counter to the information contained in reference (b).

Regardless, due to the probable existence of an error warranting correction, the Board determined that relief is warranted in the form of a thorough administrative review of the proper basis of Petitioner's discharge to identify his narrative reason for separation and separation authority and, if necessary, issue an appropriate correction. If no such correction is necessary, the Board determined a letter should be issued properly explaining to Petitioner why he was discharged with a separation code of "JMJI" when the cited authority for his separation code, specifically subparagraph 6019.1d, does not appear to align with that code. Accordingly, the Board determined that it is in the interest of justice to grant partial relief in the form of an administrative review of Petitioner's separation records with either a correction thereto or an

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appropriate response as to why such correction is not required, after addressing the concerns identified herein by the Board.

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

RECOMMENDATION:

That Petitioner receive a review of the basis for which he was separated to determine and be issued an official decision addressing the appropriate narrative reason for separation, separation authority, and separation code which should have been issued at the time of his discharge. Following this review, if required, Petitioner be issued an appropriate correction to his DD Form 214 consistent with that review.

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.

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.

8/23/2024

[REDACTED]

Executive Director

Signed by: [REDACTED]