



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

[REDACTED]
Docket No. 3759-25
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] USMC

Ref: (a) Title 10 U.S.C. § 1552
(b) MARADMIN 462/21, Mandatory COVID-19 Vaccination of Marine Corps Active And Reserve Components, 1 Sep 21
(c) MARADMIN 733/21, Change 1 To Supplemental Guidance (2) To Mandatory COVID-19 Vaccination of Marine Corps Active and Reserve Components, 22 Dec 21
(d) Executive Order 14184, Reinstating Service Members Discharged Under the Military's COVID-19 Vaccination Mandate, of 27 Jan 25
(e) Office of the Under Secretary of Defense memo, Updated Guidance on Correction of Military Records for Service Members Involuntarily Separated for Refusal to Comply with Coronavirus Disease 2019 Vaccination Requirements, 1 Apr 25
(f) Office of the Under Secretary of Defense memo, Supplemental Guidance to the Military Department Discharge Review Boards and Boards for Correction of Military/ Naval Records Considering Requests from Service Members Adversely Impacted by Coronavirus Disease 2019 Vaccination Requirements, 7 May 25

Encl: (1) DD Form 149 w/attachments
(2) Advisory Opinion, HQMC memo [REDACTED]
(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 reflect the original Armed Forces Active Duty Base Date (AFADBD) of 19 July 2010 with no break in time of service as outlined in Executive order 14184; the original date of rank (DOR) of 1 December 2017; and that he received receive full back pay for the time lost.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 21 May 2025 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

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reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. On 7 September 2018, Petitioner reenlisted for 4 years with an End of Current Contract (ECC) of 6 September 2022.

b. Reference (b) provides guidance to Marine Corps active and reserve components to implement Secretary of Defense (SECDEF)-directed mandatory Coronavirus Disease 2019 (COVID-19) vaccination of Department of Defense (DoD) service members. This MARADMIN cancels and replaces MARADMIN 754/20.

“3.a. Per refs (b)[OSD MEMO, Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members] and (c)[ALNAV 062/21 2021- 2022 Department of Navy Mandatory COVID-19 Vaccination Policy], all Marine Corps active and reserve component (Active Reserve, Selected Marine Corps Reserve, and Individual Mobilization Augmentee) service members shall be fully vaccinated against COVID-19, unless medically or administratively exempt. All non-exempt active component personnel will achieve full vaccination no later than 90 days from the date of ref (c), and all non-exempt reserve component personnel will achieve full vaccination no later than 120 days from the date of ref (c).” “3.1. The provisions contained within paragraph 3.a of this MARADMIN constitute a lawful general order and any violation of these provisions is punishable as a violation of Article 92 of ref (i) [10 U.S.C. Chapter 47, Uniform Code of Military Justice]. Marines shall take action to fully immunize themselves against COVID-19 per ref (j) [U.S. Navy Regulations, paragraph 1144]. Paragraph 3.a is punitive and applies without further implementation. Commanders, commanding officers, and officers in charge shall issue appropriate orders to ensure that their Marines and Sailors are fully vaccinated. In accordance with Rule for Court Martial 306 of ref (n) [Manual for Courts Martial United States (2019 EDITION)], initial disposition authority for cases arising from COVID-19 vaccine refusals is withheld to the general court- martial convening authority level except that administrative counseling pursuant to paragraph 6105 of ref (k) [Marine Corps Order 1900.16 Chapter 2 (MARCORSEPMAN)] may be issued at the special court martial convening authority level.” “This MARADMIN is applicable to the Marine Corps total force. This MARADMIN remains in effect until canceled.”

c. On 15 November 2021, Commanding General, [REDACTED] notified All Commanding Officers, [REDACTED] that “[p]ursuant to reference (a) [MARADMIN 462/21], I am the initial disposition authority for legal actions taken on the basis of COVID-19 vaccination status within [REDACTED]. Additionally, pursuant to reference (b) [MARADMIN 612/21], Marines who are not fully vaccinated by 28 November 2021 shall be processed for separation unless they have a valid exemption or are pending determination of an exemption request. Reference (a) states that a Marine is 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 COVID-19 vaccine.”

d. On 2 December 2021, Deputy Commandant for Manpower and Reserve Affairs notified Petitioner that “I have carefully considered your request for an immunization waiver. Your request is denied.”

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e. On 8 December 2021, Petitioner signed an Administrative Remarks (NAVMC 118/11) listing the following: "Counseled this date concerning the denial of my request for a religious accommodation to the requirement that I be fully vaccinated against COVID-19 in accordance with MARADMIN 462/21. In accordance with MCO 173G.9, I have ten business days from the date on this counseling to file an appeal, if I choose to do so. I understand that if I do not file an appeal within ten business days, then I will be ordered to comply with MARADMIN 462/21 and take steps to be fully vaccinated against COVID-19."

f. On 10 December 2021, Commanding Officer, [REDACTED] notified Petitioner that "[i]n accordance with the references, you are hereby ordered to ensure that you are fully vaccinated against COVID-19 no later than 19 January 2022. To be in compliance with this order, you must receive your final dose of COVID-19 vaccine no later than 5 January 2022. If you receive the Pfizer-BioNTech/ Comirnaty vaccine, then you must get your first dose no later than 15 December 2021.

You may receive the vaccine either from a military medical provider or a different medical provider, to include an off-base doctor's office, clinic or pharmacy. The mandatory timelines listed in paragraph 1 of this letter apply regardless of the provider.

You shall report receiving the COVID-19 vaccine to [REDACTED] in 5-1 within one (1) business day of receiving each dose. If the vaccine is unavailable, you shall notify [REDACTED] within one (1) business day.

This letter is a lawful order. Failure to comply constitutes a violation of Article 92 of the Uniform Code of Military Justice and may subject you to punitive and/or adverse administrative actions."

g. Reference (c) announces a change to the Supplemental Guidance (2) to Mandatory COVID-19 Vaccination of Marine Corps Active and Reserve Components.

Change to reference (c) [MARADMIN 612/21, Supplemental Guidance (2) To Mandatory Covid-19 Vaccination of Marine Corps Active and Reserve Components]. Paragraph 8.b. is amended to change the reentry code of "RE- 4" to reflect "RE-3P." Paragraph 8.b. is modified to read "Enlisted Marines separated from active duty on the sole basis of failure to comply with MARADMIN 462/21 will receive a reentry code of "RE-3P" per ref (e) [Marine Corps Order 1900.16, Separation and Retirement Manual (MARCORSEPMAN)]. Commanders shall document the assignment of an RE-3P reenlistment code with a page 11 counseling entry signed by both the Marine and the Commander per paragraph 4006.3.d. of reference (f) [Marine Corps Order P1470.12K, Marine Corps Individual Records Administration Manual (IRAM)]." "This MARADMIN applies to the Total Force and is effective upon release."

h. On 7 January 2022, Petitioner signed an Administrative Remarks (NAVMC 118/11) listing the following: "Counseled this date concerning the following deficiencies: Violation of Article 92, Uniform Code of Military Justice (failure to obey a lawful general order and failure to obey other lawful order). You were counseled to ensure that you were fully vaccinated against

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COVID-19 in accordance with MARADMIN 462/21. You have failed to comply with these orders.

Specific recommendations for corrective action are to comply with all lawful orders regarding the COVID-19 vaccine. You may seek assistance through your chain of command, and healthcare providers are available to discuss any questions or concerns you may have concerning the vaccine.

I understand that I am being processed for administrative separation per MARCORSEPMAN paragraph [choose either 6203.7e, Convenience of the Government (Refusal of Medical Treatment) or 6210.6, Commission of a Serious Offense].

I understand that failure to complete my enlistment contract with an honorable characterization of service may preclude my eligibility for benefits from the Department of Veterans Affairs or other organizations and may have an adverse effect on future civilian employment.”

i. On 29 April 2022, Commanding General, [REDACTED], [REDACTED] notified Commandant of the Marine Corps (MMRP-20) that “[r]eaddressed and forwarded for filing in accordance with section 6311 of the reference [MCO 1900.16].

I have carefully reviewed the respondent's Separation History and Physical Examination (SHPE) and determined that no medical condition had an effect on the performance or conduct resulting in the basis for separation.

The recommendation that the Respondent be administratively discharged from the United States Marine Corps is approved. By copy of this letter, the Respondent's Commanding Officer is directed to take those administrative steps necessary to effect subject Marine's separation within 5 working days from the date of receipt of this letter under the following criteria: a. Characterization of Service: Honorable; b. Authority for Discharge: MARCORSEPMAN, par.6210.6; c. Separation Code: JKM1 - MISCONDUCT (OTHER); d. Reenlistment Code: RE-3P; and e. Suspension: 0 month(s).”

j. Petitioner was discharged 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 19 July 2010 to 6 May 2022 due to misconduct (other).

k. On 25 May 2022, Petitioner’s Reporting Senior signed Petitioner’s EN USMC Fitness Report (NAVMC 10835A) for the period of 1 January 2022 to 5 May 2022 while being assigned an [REDACTED]. Furthermore, Petitioner was recommended for promotion.

l. On 1 August 2024, Petitioner reenlisted for 4 years with an ECC of 31 July 2028.

m. In accordance with Marine Corps Total Force System (Basic Individual Record), Petitioner’s Pay Entry Base Date (PEBD)/AFADBD is 13 October 2012. Petitioner’s Present Grade is E-6 and DOR is listed as 1 August 2024.

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n. Reference (d) Section 1. Purpose and Policy. On August 24, 2021, the Secretary of Defense mandated that all service members receive the COVID-19 vaccine. The Secretary of Defense later rescinded the mandate on January 10, 2023. The vaccine mandate was an unfair, overbroad, and completely unnecessary burden on our service members. Further, the military unjustly discharged those who refused the vaccine, regardless of the years of service given to our Nation, after failing to grant many of them an exemption that they should have received. Federal Government redress of any wrongful dismissals is overdue.

“Sec. 2. *Redress*. Consistent with the policies announced in section 1 of this order, the Secretary of Defense or the Secretary of Homeland Security, as appropriate, shall take all necessary action permitted by law to: make reinstatement available to all members of the military (active and reserve) who were discharged solely for refusal to receive the COVID— 19 vaccine and who request to be reinstated; enable those service members reinstated under this section to revert to their former rank and receive full back pay, benefits, bonus payments, or compensation; and allow any service members who provide a written and sworn attestation that they voluntarily left the service or allowed their service to lapse according to appropriate procedures, rather than be vaccinated under the vaccine mandate, to return to service with no impact on their service status, rank, or pay.”

o. Reference (e) provides updated guidance and procedures (Attachment 1) to implement Executive Order (EO) 14184, "Reinstating Service Members Discharged Under the Military's COVID-19 Vaccination Mandate," January 27, 2025 and Secretary of Defense Memorandum, "Providing Remedies for Service Members and Veterans Negatively Impacted by the Department's Defunct Coronavirus Disease 2019 Vaccination Mandate Based Executive Order," February 6, 2025. This updated guidance replaces Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, "Correction of Military' Records for Service Members Involuntarily Separated for Refusal to Comply With COVID-19 Vaccination Requirements, February 7, 2025 (hereby rescinded).”

“As directed by the Secretary of Defense, the Department of Defense shall take all actions necessary to make reinstatement available to all members of the military (Active and Reserve Components) who were discharged solely for refusal to receive the Coronavirus disease 2019 (COVID-19) vaccine and who request to be reinstated. The Secretaries of the Military Departments will process reinstatements for individuals either involuntarily discharged or those who voluntary left the service or allowed their service to lapse, rather than be vaccinated under the vaccine mandate, consistent with this guidance. In cases where the Service member was involuntarily separated (EO, sec. 2(a) and (b)), the Secretaries of the Military Departments will contact such Service members and make available to them reinstatement via the Boards for Correction of Military/Naval Records (BCM/NRs) process. The BCM/NRs should exercise their broad discretion to order all appropriate retroactive corrections of the Service member's record as described in Attachment 2.”

p. Reference (f) “[t]he Secretary of Defense has taken decisive action to execute the President's guidance to correct this injustice: (1) All former Service members discharged solely for refusing to receive the COVID-19 vaccine may pursue reinstatement in the military, and be considered for eligibility to receive backpay; and (2) Former Service members who attest that

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they voluntarily left the military or allowed their service to lapse according to appropriate procedures due to the military's previous COVID-19 vaccination mandate may pursue a return to military service.”

“In addition...Other Service members, who remained in service and requested religious, administrative, or medical accommodations related to the COVID-19 vaccine requirement, may still have adverse information in their records connected to those requests. To remedy these harms, on April 23, 2025, the Secretary of Defense directed the Under Secretary of Defense for Personnel and Readiness to issue additional guidance to the Military Department Review Boards concerning the review of requests from Service members and former Service members adversely impacted by the COVID-19 vaccine mandate. I hereby direct the following:

The Secretaries of the Military Departments will, through their Boards for Correction of Military / Naval Records (BCM/NRs), continue to apply the guidance contained within reference (b), which my office issued to facilitate the reinstatement or return of eligible individuals who wish to continue their military service.

Within 15 calendar days of the date of this memorandum, the Secretaries of the Military Departments will rescind references (c), (d), and (e) and distribute the attached guidance to their Discharge Review Boards (DRBs) and BCM/NRs in their place.

The BCM/NRs should carefully consider claims by individuals who filed formal requests for administrative or medical accommodation, including requests for religious accommodation, related to the Department's previous COVID-19 vaccine mandate, yet continued to serve. Adverse actions in a Service member's records solely associated with their refusal to take a COVID-19 vaccination or seek an exemption from that COVID-19 vaccine mandate should be removed...”

q. In the advisory opinion, attached as enclosure (2), [REDACTED] ([REDACTED]) stated that Petitioner has already been reinstated; therefore, [REDACTED] has no authority or equity in Petitioner's request. [REDACTED] recommends that this request be forwarded to Manpower and Reserve Affairs (M&RA).

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of references (d), (e) and (f), the Board finds the existence of an injustice warranting the following corrective action. The Board determined that on 6 May 2022, Petitioner was discharged for misconduct (other) due to refusing to comply with reference (b). On 1 August 2024, Petitioner reenlisted for 4 years. Petitioner's record currently shows a break in service and his DOR is listed as 1 August 2024. In accordance with reference (e), the Secretary of Defense or the Secretary of Homeland Security, as appropriate, shall take all necessary action permitted by law to: make reinstatement available to all members of the military (active and reserve) who were discharged solely for refusal to receive the COVID-19 vaccine and who request to be reinstated; enable those service members reinstated under this section to revert to their former rank and receive full back pay, benefits, bonus payments, or compensation. The Board

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determined that Petitioner reentered the Marine Corps prior to the release of reference (e), however he was discharged solely for refusal to receive the COVID-19 vaccine. The Board determined it would be unjust that Petitioner be treated differently than those who are reinstated after reference was released, therefore relief is warranted.

RECOMMENDATION

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

Petitioner's discharge from the U.S. Marine Corps effective 6 May 2022, is rescinded.

Petitioner's PEBD/AFADBD is 19 July 2010.

Petitioner's Staff Sergeant/E-6 DOR is 1 December 2017 vice 1 August 2024.

Petitioner was discharged on 5 September 2022 and reenlisted on 6 September 2022 for a term of 4 years. Note: Per MARADMIN 344/21, a zone "C" Selective Retention Bonus for MOS 6132, E-6, was not authorized. Furthermore, this change will not affect Petitioner's current reenlistment contract of 1 August 2024.

Note: HQMC is directed to scrub Petitioner's record and remove any and all references to Petitioner's discharge, including but not necessarily limited to his DD Form 214 and the documents related to his administrative separation process for COVID-19. Furthermore, that fitness report Admin Filler(s) are created for the period of service not observed. That any other corrections affected by the Board's decision be corrected. Finally, the Defense Finance and Accounting Service will complete an audit of Petitioner's pay records to determine amounts due, if any.

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 titled 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.

6/3/2025

[REDACTED]