



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

[REDACTED]
Docket No. 4099-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
XXX XX [REDACTED] USMC

Ref: (a) 10 U.S.C. §1552
(b) USD (P&R) Memo, "Updated Guidance on Correction of Military Records for Service Members Involuntary Separated for Refusal to Comply with Coronavirus Disease 2019 Vaccination Requirements," 1 April 2025
(c) MARADMIN 733/21, subj: Change 1 to Supplemental Guidance (2) to Mandatory COVID-19 Vaccination of Marine Corps Active and Reserve Components, dtg 222015Z DEC 21
(d) MARADMIN 462/21, subj: Mandatory COVID-19 Vaccination of Marine Corps Active and Reserve Components, dtg 011400Z SEP 21
(e) Executive Order 14184, Reinstating Service Members Discharged Under the Military's COVID-19 Vaccination Mandate, 27 January 2025
(f) SECNAVINST 5420.193, Board for Correction of Naval Records, 19 November 1997

Encl: (1) DD Form 149 w/attachments
(2) DD Form 214
(3) HQMC Memo 1040 MRA, subj: Retention Eligibility for Reinstatement in the United States Marine Corps, 18 April 2025

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, pursuant to the guidance in reference (b). Specifically, Petitioner requested that his record be corrected to reflect that he was never separated from the Marine Corps and that he has continued to serve without interruption.¹

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 22 April 2025 and, pursuant to its governing policies and procedures, determined that the corrective action reflected in paragraph 5 below should be taken upon Petitioner naval record in the interests of justice. Documentary material considered by the Board included the enclosures; relevant portions of Petitioner's naval record of the Petitioner; and applicable statutes, regulations, and policies.

¹ Petitioner also requested that his resulting reinstatement be aligned with a reenlistment action, and this he be considered eligible for reenlistment as a Fiscal Year 2026 Marine. This request, however, is beyond the scope of the Board's authority.

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3. Factual Background. Following are the relevant facts of Petitioner's case based upon review of his naval record and/or the matters provided with his application:

- a. On 25 January 2017, Petitioner enlisted in the Marine Corps for a period of five years.²
- b. Petitioner entered active duty in the Marine Corps pursuant to the enlistment described in paragraph 3a above on 20 March 2017. See enclosure (2).
- c. On 8 December 2021, Petitioner was informed that he was eligible but not recommended for promotion to Staff Sergeant due to his pending administrative separation for refusing the former COVID-19 vaccination mandate of reference (d).
- d. On 21 January 2022, Petitioner was involuntarily discharged from the Marine Corps for misconduct due to commission of a serious offense with a general (under honorable conditions) characterization of service.³ The serious offense in question was his refusal to comply with the former COVID-19 vaccination mandate of reference (c) in violation of Article 92, Uniform Code of Military Justice. See enclosure (2).
- e. On 27 April 2022, Petitioner was issued an adverse fitness report (FITREP) for the reporting period 1 May 2021 to 21 January 2022 due to his involuntary administrative separation.
- f. There is no evidence in Petitioner's record supporting any reasonable basis for involuntary discharge unrelated to his refusal to comply with the former COVID-19 vaccination mandate.
- g. By memorandum dated 18 April 2025, Headquarters, Marine Corps (HQMC) certified that Petitioner was prescreened in accordance with reference (b) and determined to meet retention standards. See enclosure (3).

4. Conclusion. Upon careful review and consideration of all the evidence of record, the Board found an injustice warranting relief.

a. According to reference (e), the COVID-19 vaccine mandate was an "unfair, overbroad, and completely unnecessary burden on our Service members" and the military "unjustly discharged those who refused the vaccine." Since there was no other basis for administrative separation apparent in Petitioner's naval record, the Board found an injustice in that Petitioner was involuntarily separated from the Marine Corps solely for refusing the former COVID-19 vaccination mandate.

b. Having found an injustice in that Petitioner was involuntarily separated from the Marine Corps solely for refusing the former COVID-19 vaccination mandate, the Board also found an injustice in any and all adverse actions that followed from or contributed to that separation.

² In accordance with reference (c), Petitioner was not eligible for reenlistment due to his refusal to comply with the COVID-19 vaccination mandate of reference (d).

³ The Naval Discharge Review Board (NDRB) subsequently upgraded Petitioner's characterization of service to honorable and changed his narrative reason for separation to "Secretarial Authority."

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5. Recommendations. Having found an injustice in that Petitioner was involuntarily separated from the Marine Corps solely for refusing the former COVID-19 vaccination mandate, the Board recommends that the following corrective actions be taken on Petitioner's naval record.

a. The following recommended corrective actions are contingent upon Petitioner's agreement to serve for four additional years of active duty starting on the date of his reinstatement:⁴

(1) That HQMC determine whether Petitioner would have been promoted to Staff Sergeant but for his pending administrative separation, and if so, take all corrective action necessary to effectuate that promotion effective on the date that he otherwise would have been promoted.

(2) That Petitioner's naval record be corrected to reflect that he was not discharged from the Marine Corps on 21 January 2022, but rather that he continued to serve honorably in the rank (or ranks) as determined by HQMC pursuant to paragraph 5a(1) above with no break in service at his last duty station. As such, Petitioner is to receive constructive service credit for the period from 22 January 2022 until the date that he is reinstated in the Marine Corps. To effectuate this relief, 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.

(3) That documentation be added to Petitioner's naval record establishing that he requested and was approved for reenlistment prior to his original end of active obligated service (EAOS) date in order to facilitate his continuous service as recommended in paragraph 5(a)(2) above. The duration of this enlistment is left to HQMC to decide in consultation with Petitioner, but it must be of sufficient duration to encompass the period between his original EAOS date and his eventual reinstatement date.⁵ HQMC shall determine whether such a reenlistment would have entitled Petitioner to any reenlistment bonuses, and ensure that the Defense Finance and Accounting Service (DFAS) is aware of such determination.

(4) That appropriate administrative fillers be inserted into Petitioner's naval record to remove the gap in Petitioner's record between 22 January 2022 and his eventual reinstatement date during which he did not receive any FITREPs.

b. The Board further recommends that that HQMC scrub Petitioner's naval record and remove any adverse information pertaining to Petitioner's refusal to comply with the former COVID-19 vaccination mandate, including but not limited to any punitive actions, "Page 11" entries, and adverse FITREPs (to be replaced with appropriate administrative filler). This recommended corrective action is not contingent upon Petitioner's agreement to serve for four additional years of active duty and should be implemented without delay.

⁴ Petitioner's failure to agree to this contingency, or to execute such agreement once made, shall negate these recommendations. This contingency is applied in accordance with the guidance attached to reference (b).

⁵ Petitioner's four year active service obligation effective upon his reinstatement in the Marine Corps may be served concurrently with any remaining period in this term of enlistment.

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c. Copies of this record of proceedings shall be provided to the DFAS and the Defense Health Agency to facilitate the estimate of all pay and benefits which may be due to Petitioner as a result of the contingent corrective actions referenced in paragraph 5a above.

6. 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. I have assured compliance with the provisions of reference (f) in the Board's proceedings.

7. Pursuant to the authority delegated to me by the Secretary of the Navy in reference (f), I hereby approve the Board's recommendations and direct the corrective actions reflected in paragraph 5 above on his behalf.

4/29/2025

