



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

JHW
Docket No. 4402-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED],
USN, XXX-XX-[REDACTED]

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) ALNAV 062/21, subj: 2021-2022 Department of Navy Mandatory COVID-19 Vaccination Policy, dtg 302126Z AUG 21
(d) Executive Order 14184, Reinstating Service Members Discharged Under the Military's COVID-19 Vaccination Mandate, 27 January 2025
(e) SECNAVINST 5420.193, Board for Correction of Naval Records, 19 November 1997

Encl: (1) DD Form 149 w/attachments
(2) DD Form 214
(3) Retention Eligibility Memo, 29 Apr 25
(4) Request for Advisory Opinion BUPERS-328, 2 Jul 25
(5) Office of the CNO (N132) Advisory Opinion, 2 Jul 25

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 Navy and that continued to serve without interruption. Additionally, Petitioner requested that his reinstatement be aligned with a reenlistment, and he be considered for back pay any retention incentives if available.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 9 July 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; and applicable statutes, regulations, and policies.

3. Factual Background. The 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 8 July 2008, Petitioner enlisted in the United States Navy for a period of eight years.

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b. Petitioner entered active duty in the Navy pursuant to the enlistment described in paragraph 3a above on 3 March 2009. See enclosure (2).

c. On 3 March 2009, Petitioner extends his enlistment for 12 months for eligibility of the enlistment bonus program.

d. Petitioner reenlisted on 28 February 2013 for four years with an EAOS of 27 February 2017. Petitioner again reenlisted on 15 November 2016 for four years with an EAOS of 14 November 2020. On 16 July 2020, Petitioner extended his enlistment for nine months with a EAOS of 14 August 2021. Petitioner's record is incomplete, in that it does not contain the reenlistment or extension documents for his period of service from 15 August 2021 to separation.

e. Petitioner's record is incomplete, in that it does not contain the documents pertinent to page 13 counseling warnings and the administrative separation processing. Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties.

f. On 5 May 2022, Petitioner was involuntarily discharged from the Navy for misconduct due to commission of a serious offense with an Honorable characterization of service. 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).

g. By memorandum dated 29 April 2025, Navy Recruiting Command certified that Petitioner was prescreened in accordance with reference (b) and determined to meet retention standards. See enclosure (3).

h. By memorandum dated 2 July 2025, BUPERS-328 advised the Board a review of the Petitioner's Official Military Personnel File (OMPF) shows he was an MA2. His Active Duty Service Date (ADSD) was 3 March 2009, and his Expiration of Active Obligated Service (EAOS) was 1 August 2024. At the time of his EAOS he would not have been eligible for an SRB because he was over 14 years of service. See enclosure (4).

i. By memorandum dated 2 July 2025, the Office of the Chief of Naval Operations (N132) advised the Board that Petitioner would have been eligible to participate in Cycle 256 Navy-Wide Advancement Exam (NWAE) prior Cycle 256 NWAE in September 2022 for an advancement opportunity to MA1/E6. If Petitioner advanced to MA1/E6 from Cycle 256, effective date of advancement would have been between January-June 2023, with last effective date of pay being June 16, 2023, and a TIR of 1 January 2023. The next advancement eligibility point to E7 would be January 2025 advancement cycle 266 NWAE. See enclosure (5).

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

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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 therefore found an injustice in that Petitioner was involuntarily separated from the Navy solely for refusing the former COVID-19 vaccination mandate.

b. Having found an injustice in that Petitioner was involuntarily separated from the Navy 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.

5. Recommendations. Having found an injustice in that Petitioner was involuntarily separated from the Navy 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 acceptance of the Navy’s offer of reinstatement subject to the terms of reference (b).¹

(1) That Petitioner’s record be corrected to reflect that he was promoted to master-at-arms first class petty officer (MA1) with a date of rank of 16 June 2023. NPC will make all appropriate service record entries of his correction promotion date.

(2) The Petitioner is eligible for E7 and should participate in the first available promotion examination to E7 and submit for an exception to policy (ETP) to the Chief of Naval Operations (OPNAV N132C) in accordance with paragraph 104 of BUPERSINST 1430.16 series. If all requirements are met for eligibility of a missed exam and an ETP is disapproved by N132C, Petitioner may reapply to this Board for consideration of advancement to E7 retroactive to the date Petitioner would have been advanced on the "missed" examination cycle(s). Petitioner should submit a DD Form 149, command endorsement/ recommendation, and must include a copy of this letter with the request, a copy of the advancement in rate or change of rating worksheet (NETPDC 1430/3) for the cycle(s) missed, and all supporting documentation in accordance with the respective NAVADMIN for adjudication from this Board.

(3) That Petitioner’s naval record be corrected to reflect that he was not discharged from the Navy on 5 May 2022, but rather that he continued to serve honorably in the ranks indicated in 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 5 May 2022 until the date that he is reinstated in the Navy. To effectuate this relief, NPC 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.

(4) That documentation be added to Petitioner’s naval record establishing that he performed an extension of his EAOS of 1 August 2024 to facilitate his reenlistment once the Petitioner is reinstated.

¹ Petitioner’s failure to agree to this contingency, or to execute the terms of his reinstatement shall negate these recommendations. This contingency is applied in accordance with the guidance attached to reference (b).

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b. The Board further recommends that that NPC 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 13" entries subject to the contingency referenced in paragraph 5(a) above and should be implemented without delay.

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 the Petitioner as a result of the contingent corrective actions referenced in paragraph 5a above.

5. 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.

6. 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.

7/23/2025

