



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. 5610-25
Ref: Signature Date

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Dear █

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 4 June 2025. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies.

On 23 February 2013, you were joined to the Reserve Officer/Enlisted ordered to active duty to provide FTS (Full Time Support).

In accordance with 10 U.S.C. §12301. Reserve components generally. “(d) At any time, an authority designated by the Secretary concerned may order a member of a reserve component under his jurisdiction to active duty, or retain him on active duty, with the consent of that member. However, a member of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the governor or other appropriate authority of the State concerned.”

In accordance with Secretary of Defense memorandum, Message to the Force, 9 August 2021, “[b]ased on these consultations and on additional discussions with leaders of the White House COVID Task Force, I want you to know that I will seek the President's approval to make the vaccines mandatory no later than mid-September, or immediately upon the U.S. Food and Drug Administration (FDA) licensure, whichever comes first. By way of expectation, public reporting suggests the Pfizer-BioNTech vaccine could achieve full FDA licensure early next month.”

On 18 August 2021, you signed and submitted an Administrative Action (NAVMC 10274) listing the following: “I am currently serving on 10 U.S.C. 12301(d) orders on active duty as a member of the U.S. Marine Corps Active Reserve program as the Special Assistant Marine Corps within the Office of the Assistant Secretary of the Navy (Manpower & Reserve Affairs). IAW 10 U.S.C. 12301(d) I was initially ordered to active duty with my consent and have continued to consent to be retained on active duty over the past nine years. I will be deciding to revoke my consent to be retained on active duty effective upon exhausting all remaining Leave. As such, I will no longer satisfy the criteria for retention on active duty per the requirements of 10 U.S.C. 12301(d). Consequently, and per reference (d), I am submitting this AA form to HQMC, DC (M&RA), Reserve Affairs to request a transfer to the Individual Ready Reserve effective on 5 November 2021 when my 68.5 days of leave are expended. I request that my terminal leave from my current duties begin on 31 August 2021 in order to provide health coverage for my family while I seek new employment. I currently have no End of Active Service date as a career designated Active Reserve Marine; I meet all conditions of separation eligibility contained in references (a), (b), and (c). I deeply regret the short notification of this request caused by circumstances and stand by to facilitate the turnover of my billet responsibilities to my relief to ensure mission continuity.”

In accordance with Secretary of Defense memorandum, Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members, 24 August 2021, “[t]o defend this Nation, we need a healthy and ready force. After careful consultation with medical experts and military leadership, and with the support of the President, I have determined that mandatory vaccination against coronavirus disease 2019 (COVID-19) is necessary to protect the Force and defend the American people... I therefore direct the Secretaries of the Military Departments to immediately begin full vaccination of all members of the Armed Forces under DoD authority on active duty or in the Ready Reserve, including the National Guard, who are not fully vaccinated against COVID-19.”

In accordance with MARADMIN 462/21, Mandatory COVID-19 Vaccination of Marine Corps Active and Reserve Components, 1 September 2021, “[t]his MARADMIN 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 ref (a) [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.”

You were released from active duty with an honorable character of service and were issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 23 February 2013 to 5 November 2021 upon completion of required active service.

On 6 November 2021, you were joined to the IRR (Individual ready Reserve), MTU (Mobilization Training Unit) RU (Reporting Unit) 88900-88906, IRR Member in Officer Training Program.

Your Career Retirement Credit Record (CRCR) that covered periods of military service beginning 20 May 2001 to present, with a total points credit of 5,656, and total satisfactory years/qualifying service of 19 years. The last qualifying year you completed was for the period of 20 May 2021 to 19 May 2022.

In accordance with MARADMIN 025/23, Rescission of COVID-19 Vaccination Requirement, 18 January 2023, “[w]ith the publication of reference (a), MARADMINs 462/21, 533/21, 612/21, 733/21, and 464/22 are hereby cancelled. This MARADMIN provides direction for implementation of updated Secretary of Defense (SECDEF) guidance regarding the rescission of the COVID-19 vaccination requirement.

Background. On 10 January 2023, the U.S. Secretary of Defense issued updated guidance, rescinding the mandate that members of the armed forces be vaccinated against COVID-19... Commanders will immediately discontinue administrative separation processing of Marines solely on the grounds that they refused to receive the COVID-19 vaccine, including those with approved separation letters.”

In accordance with Executive Order 14184, Reinstating Service Members Discharged Under the Military’s COVID-19 Vaccination Mandate, of 27 January 2025, “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.”

You requested the adjustment of your service record for provision of retirement points from 6 November 2021 until 27 January 2025 (date of Executive Order Reinstating Service Members Discharged Under the Military’s COVID-19 Vaccination Mandate) or alternatively, adjustment of your service record for provision of sufficient retirement points for one additional satisfactory year for the period from 5 November 2021 until 10 January 2023. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. You assert that you refused to obey the COVID shot mandate announced in SECDEF Memos 9 August 2021 and 24 August 2021 which deprived you of qualifying for a reserve retirement, as you would have obtained 20 years of qualifying service during the duration of the COVID shot mandate. Additionally, you state that Executive Order 14184 validates your refusal to take the vaccine. However, the Board concluded that Executive Order 14184 may have validated your decision not to take the vaccine, but its provisions apply to members who were administratively separated from the service solely for refusing the vaccine and who wish to be reinstated to continue service. After the SECDEF memo dated 9 August 2021, you submitted NAVMC 10274 on 18 August 2021 requesting that “I will be deciding to revoke my consent to be retained on active duty effective upon exhausting all remaining Leave... Consequently, and per reference (d), I am submitting this AA form to HQMC, DC (M&RA), Reserve Affairs to request a transfer to the Individual Ready Reserve effective on 5 November 2021 when my 68.5 days of leave are expended...” The Board noted that you made no mention of the COVID vaccine mandate as a reason for your request. Even if the Board agreed that your reason for the request was because of your refusal to get the COVID vaccine, you were transferred to the IRR at your own request; you were not discharged from the Marine Corps for refusing the vaccine. Furthermore, the Board disagreed with your assertion that you were deprived of a qualifying year towards a Reserve retirement. While in the IRR, you could have completed correspondence points, or you could have requested to return to active duty or join the Ready Reserve to complete drills to earn a satisfactory year, once MARADMIN 025/23, Rescission of COVID-19 Vaccination Requirement, was published on 18 January 2023. Finally, because you have not been discharged from the IRR, the Board determined that you still have the opportunity to earn a final qualifying year towards a reserve retirement. Therefore, a change to your record is not warranted.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

6/9/2025

