



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

██████████
Docket No. 2647-26
Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. § 1552
(b) SECNAVINST 1420.3, Department of the Navy Commissioned Officer Promotion Program, 28 March 2019
(c) USD (P&R) Memo, "Updated Guidance on Correction of Military Records for Service Members Involuntarily Separated for Refusal to Comply with Coronavirus Disease 2019 Vaccination Requirements," 1 April 2025
(d) MCO 5800.16, Legal Support and Administrative Manual (Short Title: LSAM) (with Ch. 1-7), 26 August 2021 (Volume 15: Officer Misconduct and Substandard Performance of Duty, 8 August 2018)
(e) USD (P&R) Memo, "Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment, 25 August 2017
(f) USD (P&R) Memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military / Naval Records Regarding Equity, Injustice, or Clemency Determinations, 25 July 2018
(g) Executive Order 14184, "Reinstatement Service Members Discharged Under the Military's COVID-19 Vaccination Mandate," 27 January 2025
(h) USR (P&R) 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 2025
(i) MCO P1900.16F (Ch.2) , Marine Corps Separation and Retirement Manual (Short Title: MARCORSEPMAN), 6 June 2007
(j) SECNAVINST 5420.193, Board for Correction of Naval Records, 19 November 1997
(k) ASN (M&RA) Memo, subj: Delegation of Authority to Correct Certain Naval Records, 4 February 2022

Encl: (1) DD Form 149, signed 24 January 2025 (w/attachments)
(2) NAVMC 763, 31 March 2006
(3) DD Form 214
(4) ALNAV 102/20, subj: Fiscal Year 2022 U.S. Marine Corps Lieutenant Colonel Selections, dtg 021759Z DEC 20
(5) Congressional Record – Senate, 22 February 2021 (excerpt)
(6) Congress.gov Screenshot (PN213-1 – Marine Corps)

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- (7) MCTFS Individual Separation Information, 17 September 2022
- (8) HQMC Memo 1920 JPL, subj: Report of Nonjudicial Punishment and Resignation in Lieu of Further Administrative Processing in the case of [Petitioner], 11 April 2022
- (9) Petitioner's Civilian Attorney's Letter, subj: Matters for Consideration Prior to Action on Administrative Separation in the case of [Petitioner], 21 December 2021
- (10) SECDEF Memo, subj: Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members, 24 August 2021
- (11) ALNAV 062/21, subj: 2021-2022 Department of Navy Mandatory COVID-19 Vaccination Policy, dtg 202126Z AUG 21
- (12) MARADMIN 462/21, subj: Mandatory COVID-19 Vaccination of Marine Corps Active and Reserve Components, dtg 011400Z SEP 21
- (13) Petitioner's Memo 1320, subj: Appeal to Denial of Religious Accommodation ICO [Petitioner], 25 October 2021
- (14) [REDACTED] CG Memo 5812 SJA, subj: Notification of Intent to Impose Nonjudicial Punishment, 9 November 2021
- (15) Petitioner's Endorsement of Enclosure (14), 10 November 2021
- (16) [REDACTED] CG Memo 5812 SJA, subj: Report of Nonjudicial Punishment in the case of [Petitioner], 13 January 2022
- (17) [REDACTED] CG Memo 1621 SJA, subj: Punitive Letter of Reprimand, 23 November 2021
- (18) Petitioner's Memo 5812 SJA, subj: Acknowledgement of Nonjudicial Punishment Appeal Rights, 23 November 2021
- (19) Petitioner's Memo 5812 SJA, subj: Acknowledgment of Punitive Letter of Reprimand and Appeal Rights, 23 November 2021
- (20) Petitioner's Memo BCO, subj: Response to Punitive Letter of Reprimand, 13 December 2021
- (21) Petitioner's Memo 1920, subj: Request for a Qualified Resignation in lieu of further Administrative Action by [Petitioner], 17 December 2021
- (22) Petitioner's Memo BCO, subj: Request for Honorable Characterization of Service, 19 December 2021
- (23) Petitioner's Memo 1920 SJA, subj: Acknowledgement of Receipt of Report of Nonjudicial Punishment in the case of [Petitioner], *undated*
- (24) Petitioner's Memo BCO, subj: Acknowledgement of Receipt of Report of Nonjudicial Punishment in the case of [Petitioner], 26 January 2022
- (25) HQMC Memo 1420 MMPR-1, subj: Nullification of Promotion, 26 May 2022
- (26) Department of Veterans Affairs Rating Decision, 28 October 2022

1. Pursuant to the provisions of reference (a), the Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records, hereinafter referred to as the Board, requesting that his record be corrected as necessary to reflect that he did not resign his commission in the U.S. Marine Corps (USMC) and was not discharged for misconduct with a general discharge on 1 June 2022, but rather that he continued serving with no break in service until he reached 20 years of service and was honorably retired.¹ Petitioner also requested that his

¹ Petitioner requested that the Board "upgrade [his] discharge to an Honorable characterization, restore his promotion to Lieutenant Colonel, and direct that he be retired from the Active Duty United States Marine Corps with full restoration of all rights and privileges including back pay from his date of separation and retirement back

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promotion to Lieutenant Colonel (LtCol) pursuant to his selection by the Fiscal Year (FY) 2022 USMC LtCol Promotion Selection Board (PSB) be restored.

2. A three-member panel of the Board convened in executive session to review Petitioner's allegations of error or injustice pursuant to its governing policies and procedures on 11 March 2026 and determined that no corrective action is warranted. Documentary material considered by the Board included the enclosures; relevant portions of Petitioner's naval record; and applicable statutes, regulations, and policies, to include references (e) and (f). The guidance of reference (c), however, was not applied because Petitioner's naval service was terminated by his voluntary qualified resignation in lieu of further administrative action.²

3. Factual Background. Following is the relevant factual background of Petitioner's case based upon review of his naval record and the evidence provided with his application:

a. Petitioner enlisted in the U.S. Marine Corps Reserve (USMCR) on 3 June 1999 and served in this capacity until 30 March 2006 January 2006. See enclosure (2).

b. Petitioner attended Officer Candidate School (OCS) from 22 January 2006 to 30 March 2006. See enclosure (2).

c. Upon completion of OCS, Petitioner was appointed as a commissioned officer in the USMC on 31 March 2026.³ See enclosure (2).

d. Petitioner was promoted to Major effective 1 April 2016. See enclosure (3).

e. The results of the FY 2022 USMC LtCol PSB were announced on 2 December 2020. Petitioner was amongst the Marines recommended for promotion to LtCol. See enclosure (4).

f. On 22 February 2021, Petitioner was nominated for appointment to LtCol pursuant to his selection by the FY 2022 USMC LtCol PSB referenced in paragraph 3e above. See enclosure (5).

g. On 29 April 2021, Petitioner's nomination for appointment to LtCol in the USMC was confirmed by the U.S. Senate. See enclosure (6).

h. On 2 June 2021, Petitioner deployed with his command onboard [REDACTED] ([REDACTED]) in support of [REDACTED]. See enclosure (7).

pay from his date of eligibility for Active Duty Retirement." Constructive service credit is necessarily implied from his latter two requests, as he could not be retired from active duty absent nearly two years of constructive service credit to attain 20 years of active service and the back pay he seeks necessarily would require his record to be corrected to reflect that he did not resign effective 1 June 2022 but rather that he continued serving with no break in service.

² This is a reference to Attachment 2 to reference (c), which provides that its guidance does not apply to "those Service members who remained in service, *voluntarily left the service*, or allowed their service to lapse according to appropriate procedures, rather than be vaccinated under the COVID-19 mandate (*emphasis added*)."

³ Petitioner had completed one year, 11 months, and 13 days of active service creditable toward a Regular Retirement prior to being commissioned as a Marine Corps officer. See enclosure (3).

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i. On 11 July 2021, while in port in [REDACTED], [REDACTED] Petitioner knowingly violated the established liberty order by leaving the pier adjacent to the ship while unvaccinated against COVID-19.⁴ When questioned by the ship's captain the next day about his immunization status, Petitioner replied that he was "immunized." However, upon being told that the captain thought he was lying about his vaccination status, Petitioner told the captain that he considered himself immune after previously contracting COVID-19.⁵ See enclosure (8).

j. By memorandum dated 24 August 2021, the then-Secretary of Defense (SECDEF) mandated that all Service members were required to be vaccinated against COVID-19 and directed the Secretaries of the Military Departments to impose ambitious timelines for implementation. See enclosure (10).

k. Petitioner was evacuated back to Marine Corps Base (MCB) [REDACTED] on or about 27 August 2021 and attached to [REDACTED]. See enclosures (7) and (9).

l. On 30 August 2021, the then-Secretary of the Navy (SECNAV) implemented the mandate referenced in paragraph 3j above in ALNAV 062/21, directing that all active-duty Service members in the Department of the Navy (DON) who were not already vaccinated or exempted become fully vaccinated within 90 days.⁶ See enclosure (11).

m. On 11 September 2021, the Commandant of the Marine Corps (CMC) implemented the SECNAV's directive referenced in paragraph 3l above within the USMC with the publication of MARADMIN 462/21. See enclosure (12).

n. Petitioner subsequently requested religious accommodation from the COVID-19 vaccination mandate referenced in paragraphs 3l and 3m above, but that request was denied by memorandum dated 12 October 2021. By memorandum dated 25 October 2021, Petitioner appealed this denial to the CMC. See enclosure (13).

o. On 11 October 2021, Petitioner submitted a pretrial agreement in which he agreed to accept nonjudicial punishment (NJP) for the misconduct referenced in paragraph 3i above and, if found guilty, to submit a qualified RILFAP.⁷ See enclosure (8). This pretrial agreement was

⁴ According to matters later submitted by Petitioner's defense counsel in support of his request for resignation in lieu of further administrative proceedings (RILFAP), Petitioner left the ship to attend a hail and farewell at the [REDACTED] [REDACTED] Officer's Club for the [REDACTED] [REDACTED] Operations Officer. A command investigation of this incident revealed that everyone aboard the ship had been instructed to remain "pier side" if they were not vaccinated from the COVID-19 virus, and that it was well-known that Petitioner was not vaccinated at the time. See enclosure (9).

⁵ Petitioner's promotion to LtCol pursuant to his selection by the FY 2022 USMC LtCol PSB was delay pending resolution of this misconduct in accordance with reference (b).

⁶ This equated to a deadline of 28 November 2021 for active-duty members of the DON to become fully vaccinated.

⁷ Petitioner was charged with the following offenses, in violation of Articles 92 and 133, UCMJ, respectively:

- In that [Petitioner], on active duty, having knowledge of a lawful order issued by [the [REDACTED] [REDACTED] commander], that personnel not vaccinated against COVID-19 remain within prescribed geographic liberty limits while in port at [REDACTED], an order which it was his duty to obey, did, at or near [REDACTED], [REDACTED], between on or about 11 July and 12 July 2021, violate [the

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subsequently accepted by the [REDACTED] ([REDACTED]) Commanding General (CG).

p. By memorandum dated 9 November 2021, the [REDACTED] Commanding General (CG) notified Petitioner of his intent to conduct an Article 15, UCMJ hearing (*i.e.*, an NJP hearing), consistent with the pretrial agreement discussed in paragraph 3o above. Specifically, Petitioner was notified that he was charged with the specifications stated in footnote 7 in violation of Articles 92 and 133, UCMJ, respectively. See enclosure (12).

q. Petitioner acknowledged the notice referenced in paragraph 3p above on 10 November 2021, and indicated his acceptance of adjudication at NJP after having the opportunity to consult with counsel. See enclosure (15).

r. On 23 November 2021, the [REDACTED] CG found Petitioner guilty at NJP, contrary to his pleas, of the offenses referenced in footnote 7 above. Petitioner received a punitive letter of reprimand (PLOR)⁸ and was required to forfeit \$4,287 pay per month for two months.⁹ See enclosure (16).

s. By signature dated 23 November 2021, Petitioner acknowledged his NJP appellate rights, and indicated that he did not intend to appeal the imposition of NJP. See enclosure (18). By memorandum dated the same day, Petitioner acknowledged receipt of the PLOR referenced in paragraph 3r above and footnote 8 below. He indicated that he did not intend to appeal the PLOR, but that he did intend to submit a statement concerning the PLOR for inclusion in his record. See enclosure (19).

commander's] order by wrongfully exceeding the liberty limits despite not being vaccinated against COVID-19.

- In that [Petitioner], on active duty, on or about 11 Jul 2021, at or near [REDACTED], [REDACTED], wrongfully exceeded the applicable liberty limits during his port visit to [REDACTED] and under the circumstances, such conduct was unbecoming an officer and a gentleman.

See enclosure (14).

⁸ The adjudged PLOR was issued by memorandum dated 23 November 2021. In relevant part, the PLOR stated the following:

a. You violated Article 92 of the UCMJ when, on or about 11 July 2021, after receiving a lawful order from [the [REDACTED] commander] that personnel not vaccinated against COVID-19 remain within prescribed geographic liberty limits while in port at [REDACTED], you disobeyed [the commander's] order near [REDACTED], [REDACTED], by wrongfully exceeding the liberty limits despite not being vaccinated against COVID-19.

b. Finally, you violated Article 133 of the UCMJ when, on or about 11 July 2021, you wrongfully exceeded the applicable liberty limits during your port visit to [REDACTED] and under the circumstances your conduct was unbecoming an officer and a gentleman.

c. Your behavior on these occasions constituted a substantial departure from the standards of conduct and behavior expected of an officer of Marines. Pursuant to the references, you are hereby reprimanded.

See enclosure (17).

⁹ The forfeiture of pay was suspended for six months.

t. By memorandum dated 13 December 2021, Petitioner provided a response to the PLOR referenced in paragraph 3r and footnote 8 above for inclusion in his record. In relevant part, this statement was as follows:

1. In my 22 years of service to the Marine Corps I have been unwavering in my commitment to uphold and maintain the high standards that are expected of Marine Corps Officers. I have also made many sacrifices for the betterment of the Marine Corps and for the accomplishment of my assigned missions along the way. However, in this case, I let the personal adversity and turmoil I encountered as a minority group while on this deployment effected my judgement [sic]. While deployed and not vaccinated, I made the choice to attend a fellow Shipmate and personal friend's mid-deployment farewell gathering, to see him off with the rest of the Command. At this time vaccinations were not mandatory, but encouraged through separations of liberty; which I was in violation of. I accepted NJP to gain consideration of these factors and my actions, and have humbly accepted the final judgment. I have also come to terms with the fact that my career in the Marine Corps is now over as a result.

2. Since taking my initial Oath of Enlistment in 1999 and subsequent Oaths of Office, I have always made good on my dedicated [sic] to the United States and our Constitution. I depart the Marine Corps knowing I succeeded in that endeavor, at the very least. These last two decades have afforded me opportunities I would not have otherwise had and I am grateful for the time spent serving alongside the best citizens the United States has to offer and the memories created. I am especially thankful for the lessons I will take forward, following the Marine Corps.

See enclosure (20).

u. By memorandum dated 17 December 2021, Petitioner submitted a request for qualified RILFAP pursuant to the terms of the pretrial agreement referenced in paragraph 3o above after consulting with counsel. He acknowledged that his service could be characterized as general (under honorable conditions) if his resignation was accepted, but respectfully requested that it be characterized as honorable. Petitioner also attested that this resignation was purely voluntary, and that it was based upon his NJP for violations of Articles 92 and 133, UCMJ. In this regard, he admitted that his performance of duty was substandard. See enclosure (21).

v. By memorandum dated 19 December 2021, Petitioner requested an honorable characterization of service. This request accompanied Petitioner's qualified RILFAP request referenced in paragraph 3u above. After providing some personal background and career highlights, Petitioner attempted to explain his misconduct and to put it into context. Specifically, he stated the following:

This instance to the matters effecting my separation are a result of personal turmoil I unexpectedly encountered during my last deployment. It was a circumstance I was unprepared for and one that has clearly had a profound effect to the rest of my life while ending my career.

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He requested that the totality of his career and sacrifices be taken into consideration, and hoped that his otherwise honorable service record “can be found to outweigh [his] first and only instance of substandard judgment.” See enclosure (22).

w. Also accompanying Petitioner’s RILFAP request referenced in paragraph 3u above was a letter from Petitioner’s civilian attorney dated 21 December 2021 and several character references. The former requested that Petitioner be considered for retirement from the Marine Corps in his current grade with an honorable characterization of service, despite the fact that he had less than 16 years of active service at that point and was therefore not yet eligible for retirement. In support of this request, Petitioner’s civilian attorney asserted the following:

(1) The adjudication of the misconduct in question at NJP characterized it as “minor” misconduct. Petitioner’s attorney also asserted that the lawfulness of the order issued for unvaccinated members to remain pier side was questionable, and that the circumstances of Petitioner’s violation of the order were mitigating.

(2) Petitioner’s retirement eligibility should be considered based upon the fact that he had over 20 years of combined active and reserve service in the USMC.

(3) Petitioner’s long and meritorious service is worthy of favorable consideration. In this regard, Petitioner’s attorney highlighted his career progression, numerous awards, and favorable fitness reports throughout his career. He also highlighted the favorable comments in the accompanying character references.

See enclosure (9).

x. By memorandum dated 13 January 2022, the [REDACTED] CG prepared a Report of NJP pertaining to the NJP referenced in paragraph 3r above in accordance with reference (d). He recommended that Petitioner not be required to show cause for retention at a Board of Inquiry, but that Petitioner’s RILFAP request be approved and that he be separated from the USMC with a general (under honorable conditions) characterization of service. See enclosure (16).

y. Petitioner acknowledged receipt of the Report of NJP referenced in paragraph 3x above on 26 January 2022, and indicated his desire to submit a statement in response.¹⁰ See enclosure

¹⁰ In relevant part, Petitioner’s statement in response to the Report of NJP was as follows:

2. Throughout my twenty-two (22) years of service, I have always strived to uphold the highest standards that are expected of Marine Corps Officers and Marines in my grade. By doing so, I was rewarded with the privilege of serving alongside some of the greatest Americans our nation has to offer. I am grateful to have been afforded the opportunity to fight alongside and even lead and shape the future of this, finest of the DoD. I have remained extremely focused in every billet I have served in, and succeeded all the same. I have always dedicated myself to the Marine Corps and its mission, first and foremost, oftentimes making personal sacrifices to benefit the Corps.

3. I accepted NJP for attending a farewell gathering for the [REDACTED] Operations Officer while deployed. I attended as he had become a close friend and true supporter of my Detachment. I understood this event to be a command function, which the command was in attendance for.

(23).

z. By memorandum dated 11 April 2022, the Deputy Commandant for Manpower and Reserve Affairs (DC (M&RA)) recommended to the SECNAV that Petitioner's RILFAP request be approved and that he be separated from the USMC with a general (under honorable conditions) characterization of service. In making this recommendation, the DC (M&RA) opined that Petitioner "abused the trust of his superior officers and disregarded the health, safety, and well-being of his fellow Marines and Sailors" and that his misconduct "demonstrates no potential for future service." See enclosure (8).

aa. On 27 April 2022, the Acting Assistant Secretary of the Navy for Manpower and Reserve Affairs (ASN (M&RA)) approved the DC (M&RA)'s recommendation referenced in paragraph 3z above, thus approving Petitioner's RILFAP and directing his separation from the USMC with a general (under honorable conditions) characterization of service. See enclosure (8).

bb. By memorandum dated 26 May 2022, Petitioner was notified that his promotion selection was nullified by the approval of his RILFAP.¹¹ See enclosure (25).

cc. On 1 June 2022, Petitioner was discharged from the USMC for misconduct with a general (under honorable conditions) characterization of service. He had a total of 18 years, one month, and 14 days of total active service (including the active service credit received while in the USMCR) at the time of his discharge. See enclosure (3).

dd. On 28 October 2022, the Department of Veterans Affairs (VA) granted Petitioner service connection for an adjustment disorder (with mixed anxiety and depressed mood) with a 70 percent disability rating, effective 2 June 2022. See enclosure (26).

5. Petitioner's Application. Petitioner submitted a DD Form 149 to the Board in January 2025 requesting the corrective action discussed in paragraph 1 above.¹² Through counsel, he asserted that the requested relief is warranted for the following reasons:

a. His discharge and characterization was a material error because the command ignored his good faith objections to the COVID policies, and the decisions related to his discharge and denial of retirement were based on unlawful orders, religious discrimination, and were arbitrary and capricious. In this regard, Petitioner's attorney argues that the order he violated was not a lawful one because Petitioner did not know if he was prohibited from attending an official and command sanctioned event, and because it had "no valid or logical connection to the military

4. Since then, I have continued to serve as expected, supporting my unit's mission and doing what has been asked of me. I have remained committed to the Marine Corps for twenty-two (22) years and would respectfully request to be considered for retirement in my current grade with an honorable discharge.

See enclosure (24).

¹¹ Combined with his other service-connected physical conditions, Petitioner has a 100 percent disability rating from the VA.

¹² The signature on Petitioner's DD Form 149 was dated 24 January 2025, but the Board has no record of having received it until 3 February 2026. There is e-mail traffic in the record reflecting that Petitioner's attorney resent his application via e-mail shortly before the latter date.

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mission and forced military members to take an experimental medical treatment in violation of their Constitutional rights, statutory law, and military regulations or to suffer humiliating punishment and isolation.” Petitioner’s attorney made further arguments attempting to equate the order Petitioner was accused of violating (*i.e.*, the order not to depart the immediate vicinity of [REDACTED] in dock in [REDACTED] if not vaccinated) with the later-implemented COVID-19 vaccination mandate.

b. He entered into the pretrial agreement referenced in paragraph 3o above only under the extreme duress of being threatened “with multiple charges for violating unlawful orders to receive the COVID vaccine and he was facing deteriorating mental health.” Specifically, his attorney argued that “[t]he combination of pre-trial confinement, extended time away from his family, and months of isolating due to the COVID restrictions for the unvaccinated created a sense of hopelessness and futility.”¹³

c. He received adverse action due to his religious beliefs and his discharge was a continuation of the illegal discrimination against him. Again, Petitioner’s attorney attempted to equate the illegality of the later imposed COVID-19 vaccination mandate and the absence of a valid accommodation process for those members with valid religious objections to the vaccine, to movement restrictions placed upon unvaccinated Service members before that mandate was enacted.

d. He suffered disparate treatment as a result of his good faith objection to an unlawful order. Specifically, his attorney described his as “[a]n unprecedented case of coercive and punitive retaliation and unlawful command influence” subjecting “an outstanding officer and combat veteran ... to treatment that is worse than that received by individuals accused of sexual assault in the military system.”

e. Petitioner suffers from an adjustment disorder (with depressed mood), and is therefore entitled to liberal consideration pursuant to reference (e).

f. “Clemency” is warranted in accordance with the guidance of reference (f).¹⁴

See enclosure (1).

5. Conclusions.¹⁵

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the DON.

¹³ Petitioner provided a personal statement for the Board asserting that he “was placed into pre-trial confinement for 12 days without due process.” The Board found no merit to this claim, as his civilian attorney explained at enclosure (9) that this “pretrial confinement” that Petitioner described was actually a “quarantine” period after Petitioner violated the order to remain pier side and went into public at [REDACTED], [REDACTED], while not vaccinated.

¹⁴ As explained in reference (f), “clemency” refers “to relief specifically granted from a criminal sentence and is a part of the broad authority that [the Board has] to ensure fundamental fairness.” As Petitioner did not receive a criminal sentence for which “clemency” could be granted, the Board understood this as a request for relief on the basis of overall injustice. This is a semantical distinction.

¹⁵ The Board’s conclusions were unanimous.

b. In reference (g), the President described the former COVID-19 vaccination mandate as “an unfair, overbroad, and completely unnecessary burden on our service members.” Likewise, reference (h) provided that “[t]he requirement that Service members receive a coronavirus disease 2019 (COVID-19) vaccine without an adequate due process mechanism for vaccine accommodations was an injustice.” Accordingly, the Board would be inclined to find an injustice in any adverse actions taken against Petitioner as a result of his refusal to comply with the former unjust COVID-19 vaccination mandate. A careful review of Petitioner’s naval record, however, revealed no such actions. All of the adverse actions in Petitioner’s record resulted from his violation of the order of the [REDACTED] commander to remain pier-side if unvaccinated for COVID-19, and the decision to return Petitioner to MCB [REDACTED] for adjudication of this misconduct occurred before the vaccination mandate went into effect. Contrary to contention made by Petitioner’s attorney, the Board found nothing illegal about the order that Petitioner violated. [REDACTED] was docked at a friendly port while involved in an operational mission in support of [REDACTED]. The military necessity of an order for unvaccinated members to remain pier-side while docked in [REDACTED] under these circumstances is fairly obvious. First, the [REDACTED] commander was obviously attempting to create a “bubble” around the ship to ensure that a COVID-19 outbreak did not adversely affect its operational mission, and the order for unvaccinated members to remain pier-side and not to interact with a local population which was likely less vaccinated than the U.S. domestic population at that point was reasonably suited for that purpose. While it may be fair in hindsight to question the likely effectiveness of such an order given what is known today about the relative efficacy of the COVID-19 vaccination in preventing transmission of the virus, it was a reasonable and appropriate order given what was known at the time and Petitioner was not entitled to violate it. Additionally, the Board found Petitioner’s claim that he believed he could leave the pier for a “command-sanctioned” event to lack credibility because his attempt to deceive the [REDACTED] commander on the following day when questioned about his appearance at the event betrayed his awareness of his wrongdoing. Second, the military necessity and reasonableness of the order was established by consideration of relations with a U.S. ally. As noted above, [REDACTED] was docked in the friendly port of [REDACTED], [REDACTED]. Any local COVID-19 outbreak which could be traced back to an unvaccinated Sailor or Marine from the ship during this port call could become an international incident and undermine U.S. relations with and cooperation from the [REDACTED] government. Finally, the Board found no merit to Petitioner’s claim that this order discriminated against him based upon his religious beliefs. The order to remain pier-side applied to all unvaccinated members of the crew, without regard or distinction for the reason that the member was unvaccinated. Requiring such members to remain pier-side while docked in a friendly port during a worldwide pandemic and engaged in an operational mission was not a particularly burdensome restriction. Accordingly, the Board found no reason to believe that the order for unvaccinated members to remain pier-side while the [REDACTED] was docked at Manama was an inappropriate or illegal order.

c. The Board found no evidence to support or merit to Petitioner’s suggestion that the adverse actions taken against him for his violation of the order to remain pier-side were related to his later refusal to comply with the former COVID-19 vaccination mandate. To the contrary, the objective evidence in the record suggests that his objection to the vaccine mandate had no

bearing upon the actions taken in response to his violation of the order. First, Petitioner mischaracterized his “quarantine” period as “pretrial confinement.” Contrary to his current description of this action, Petitioner’s civilian attorney at the time described this as a “quarantine” period in enclosure (9). This quarantine occurred immediately after he violated the order to remain pier-side while [REDACTED] was in dock at [REDACTED], [REDACTED], to ensure that his actions did not jeopardize the mission or the crew, and before the vaccine mandate went into effect. Second, the decision to return Petitioner to MCB [REDACTED] for disposition occurred prior to the vaccination mandate. His redeployment to MCB [REDACTED] would have been unnecessary if only NJP was anticipated for this misconduct; it makes sense only if the command believed that his actions on 11 July 2025 warranted court-martial before the vaccine mandate even went into effect. Third, at no time was Petitioner ever in violation of the COVID-19 vaccination mandate. He submitted his request for religious accommodation almost immediately after the vaccine mandate was announced, and then immediately appealed when his request was denied prior to the suspense for full vaccination established in MARADMIN 462/21, so he never officially “refused the vaccine.” Additionally, Petitioner submitted the pretrial agreement before action was even taken upon his original religious accommodation request. While history proved that requests for religious accommodation from the COVID-19 vaccination mandate were rarely if ever granted, Petitioner could not have known at the time he entered into his pretrial agreement for unrelated misconduct that it would be denied. These facts strongly suggest that Petitioner’s objection to the vaccination mandate, even if vocally shared, did not factor into the adverse actions taken against Petitioner for an unrelated matter. Finally, Petitioner is mistaken in his belief that the consequences of his misconduct were unduly harsh under the circumstances. While Petitioner’s misconduct was an isolated incident within an otherwise meritorious career, it was a blatant violation of an order which had the potential to jeopardize an operational mission and other members of the crew. The potential operational impact of COVID-19 outbreaks aboard naval vessels was well known when Petitioner decided to ignore the risks and violate the order by exposing himself to the [REDACTED] population while unvaccinated. He further aggravated this misconduct by attempting to deceive the [REDACTED] commander when questioned about his vaccination status on the following day. Under these circumstances, Petitioner’s claim that he entered into the pretrial agreement only under fear of significant jail time belies his claim that his misconduct did not warrant the preferral of court-martial charges. Ultimately, Petitioner received only NJP and a general discharge for this misconduct. His resignation was granted at his own behest, and the characterization assigned to it was the most favorable that Petitioner, or any other Marine, could reasonably expect to result from acceptance of a RILFAP.¹⁶ Petitioner was not denied retirement by this act as he claims, as he was approximately two years shy of retirement eligibility when his voluntary RILFAP was accepted.

d. The Board found no evidence to support or merit to Petitioner’s contention that he entered

¹⁶ In accordance with paragraph 1004 of reference (i), a general (under honorable conditions) characterization of service “is appropriate if the member’s service has been honest and faithful but significant negative aspects of the member’s conduct or performance outweigh positive aspects” and an honorable characterization resulting from adverse conduct or unsatisfactory performance is appropriate only “if the Marine’s service is otherwise so meritorious that any other characterization would clearly be inappropriate.” As the misconduct for which Petitioner was discharged was of sufficient severity to warrant the preferral of court-martial charges, a general (under honorable conditions) characterization of service was appropriate.

into the pretrial agreement to accept NJP and to submit a RILFAP under duress. He offered no evidence to support this claim, and it is belied by the objective evidence of record. First, as noted above, Petitioner exaggerated the consequences that he suffered to support his claim of duress. He was not, as he claimed, subjected to pretrial confinement. His own attorney explained in enclosure (9) that what Petitioner describes in his present application as “pretrial confinement” was actually a quarantine period after he exposed himself to the Bahraini general population without being vaccinated in the midst of an operational mission. Additionally, this quarantine period occurred while he was still onboard the [REDACTED], before he was returned to MCB [REDACTED] and entered into the pretrial agreement. Whether the quarantine period was longer than necessary is perhaps a valid question, but under the circumstances it could not have logically contributed to any “duress” that Petitioner claimed to be under several months later when he entered into the pretrial agreement. Second, Petitioner’s own words belie his claim that he entered into the pretrial agreement under duress. Specifically, Petitioner stated in his RILFAP that his resignation was “purely voluntary.” Finally, the Board found no merit to Petitioner’s claim that he entered into the pretrial agreement under duress because it was a fairly negotiated outcome that provided him significant benefit. By his own words, Petitioner feared extended confinement. Under the terms of the pretrial agreement, he guaranteed that he would avoid the potential adverse consequences of a court-martial, which could include confinement, a punitive discharge, and a Federal felony conviction in his record, and preserved his eligibility for the VA disability benefits that he now enjoys with a combined 100 percent disability rating. He also did not “lose” his retirement, as he claims, as he was not retirement eligibility.

e. Because Petitioner based his request for relief in part upon his claimed mental health condition (*i.e.*, an adjustment disorder with depressed mood), the Board reviewed Petitioner’s application in accordance with the guidance of reference (e). Accordingly, the Board applied liberal consideration to the existence of Petitioner’s claimed mental health condition and its potential effect upon the misconduct for which he was discharged. Applying liberal consideration and finding the VA’s service connection determination to be persuasive evidence in this regard in accordance with reference (e), the Board found sufficient evidence to conclude that Petitioner suffered from the adjustment disorder for which he now receives VA disability benefits during his service in the Marine Corps. However, even applying liberal consideration, the Board could find no logical nexus between such a condition and the misconduct for which Petitioner was discharged. Petitioner explained that he violated the order in question because he wanted to attend the farewell ceremony for a friend and because he believed it to be discriminatory; any adjustment disorder, even assuming it to have existed in July 2021, would not logically contribute to such poor judgment and conduct. Accordingly, the Board did not find this condition to excuse or mitigate the misconduct for which Petitioner was discharged. The Board did, however, consider the existence of Petitioner’s adjustment disorder amongst the totality of the circumstances to determine whether equitable relief may be warranted in the interests of justice in accordance with reference (f), as discussed in paragraph 5f below.

f. In addition to applying liberal consideration to Petitioner’s claimed mental health condition and its potential effect upon the misconduct for which Petitioner was discharged in accordance with reference (e), the Board also considered the totality of the circumstances to determine whether equitable relief may be warranted in the interests of justice in accordance with reference (f). In this regard, the Board considered, amongst other factors, the entirety of

Petitioner's career in the Marine Corps, which appears to have been otherwise meritorious; the isolated and non-violent nature of Petitioner's misconduct; that Petitioner may have suffered from an adjustment disorder during his service in the Marine Corps, as discussed in paragraph 5e above; and the circumstances of Petitioner's misconduct (*i.e.*, that he wanted to attend the farewell ceremony of a friend). Unfortunately, the Board did not find these potentially mitigating circumstances to be nearly sufficient to justify any equitable relief. First, these mitigating factors were not nearly sufficient to justify granting Petitioner's request to correct his record as necessary to grant him a Regular Retirement. As noted in paragraph 1 above, such relief would necessarily require the Board to grant Petitioner approximately two years of constructive service credit (with backpay) just to establish his eligibility for such a retirement. Having found no error or injustice in the acceptance of Petitioner's RILFAP, the Board did not find such relief to be appropriate or necessary as an act of "clemency" or in the interests of justice. Likewise, the Board found Petitioner's request to restore his promotion to LtCol pursuant to his selection by the FY 2022 USMC LtCol PSB to be inappropriate as a matter of clemency or in the interests of justice. Petitioner almost certainly would have lost his promotion to LtCol due to his misconduct even if he had not resigned, and reference (f) specifically provides that changes to the narrative reason for a discharge and/or an upgraded character of discharge granted solely on equity, injustice, or clemency grounds normally should not result in retroactive promotions. The Board also found that such relief would be unfair to every other Marine Corps officer, because any such officer would have to go through the promotion review process (and would likely lose their promotion under similar circumstances) in accordance with reference (b). Finally, the Board did not find the mitigating factors sufficient to justify an upgrade to Petitioner's discharge characterization or a change to his narrative reason for separation. First, for the reasons stated above, Petitioner's misconduct was more egregious than he portrays it. This was not simply an innocent misunderstanding by an officer who believed he could depart pier-side to attend a "command function." Petitioner put the mission and his fellow crewmembers at jeopardy by violating a lawful and reasonable order. He likely would have faced court-martial, and the potential consequences thereof, if not for the bargain he reached with his pretrial agreement. Second, Petitioner aggravated the severity of his misconduct by attempting to deceive the [REDACTED] commander when questioned about his vaccination status on the day after he violated the order. This demonstrates not only his consciousness of guilt but reflects a lack of integrity which tends to offset the factors which might otherwise justify equitable relief. Petitioner doubled down on this lack of integrity in his present application, attempting to convince the Board that relief is warranted in part because he was subjected to "pretrial confinement." As discussed above, Petitioner was not subjected to pretrial confinement, but rather was quarantined to ensure that his selfishness did not jeopardize the mission. This reflects a pattern of dishonesty by Petitioner when attempting to improve his circumstances, which also weighs heavily against any equitable relief. Finally, the Board noted that all of the mitigating factors that it considered were already considered by the decision makers, to include the then-acting ASN (M&RA), when his RILFAP was approved and his discharge directed with a general (under honorable conditions) characterization of service. Nothing has changed in the four years since that decision which would justify a different outcome. The Board may have been inclined to grant equitable relief if Petitioner had been discharged under other than honorable conditions given the mitigating factors described above, but it would not have recommended upgrading Petitioner's characterization of service to one more favorable than the general (under honorable conditions) characterization already reflected

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[REDACTED] USMC

in his record. To do so would be unjust to the thousands of other Marines who complete their service honorably without engaging in misconduct warranting the preferral of court-martial charges and a RILFAP to avoid the consequences of those charges.

6. Recommendation. Based upon its conclusions as discussed in paragraph 5 above, the Board recommends that no corrective action be taken on Petitioner's naval record.

7. 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.

8. Pursuant to the authority delegated to the Board in reference (j) and to me in reference (k), the Board's recommendation reflected in paragraph 6 above is approved on behalf of the SECNAV.

6/8/2026

