



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3000 MARINE CORPS PENTAGON
WASHINGTON, DC 20350-3000

IN REPLY REFER TO:

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JAN 25 2010

SECOND ENDORSEMENT on Cmdr, MCB's ltr 5812 B0523 of 23 Nov 09

From: Commandant of the Marine Corps
To: Secretary of the Navy

Subj: VOLUNTARY BOI WAIVER AND RETIREMENT REQUEST FOR CAUSE IN
THE CASE OF CAPTAIN MATTHEW D. MIDDLETON 1947/2305 USMC

Ref: (g) U.S. Code, Title 10

1. Readdressed and forwarded for review and final action. The subject line of this endorsement has been modified to more accurately reflect the nature of the correspondence.

2. A brief chronology of this case is as follows:

a. An Inspector General of the Marine Corps Hotline complaint alleged that on divers occasions between May 2008 and July 2009, Captain Middleton wore awards and decorations he had not earned, negligently failed to ensure that travel vouchers he prepared for POV travel were authorized by regulations, and failed to be at his appointed place of duty. A subsequent command investigation substantiated that Captain Middleton improperly wore two additional gold stars in his Combat Action Ribbon and the Merchant Marine Distinguished Service Medal, their equivalent to the Medal of Honor, and appeared in promotion board photographs as a chief warrant officer-2, chief warrant officer-3, and limited duty officer (LDO) captain wearing these and other unauthorized awards. The investigation also determined that he wrongfully left work early or failed to appear at his appointed place of duty and that he negligently failed to ensure that travel vouchers he prepared for POV travel were authorized by regulations. On 18 August 2009, charges were preferred and 25 September 2009, Captain Middleton submitted a pretrial agreement wherein he agreed to accept nonjudicial punishment, tender a Board of Inquiry waiver, and request retirement in lieu of further processing.

b. On 16 October 2009, the Commander, Marine Corps Base Quantico, imposed nonjudicial punishment (NJP) on Captain Middleton for two violations of Article 92 (Dereliction of duty) and one violation of Article 133 (Conduct unbecoming an officer)

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of the Uniform Code of Military Justice. He was awarded forfeitures of \$3,073.35 per month for two months, sixty (60) days restriction, and a punitive letter of reprimand. Captain Middleton did not appeal the NJP or the punishment.

c. On 19 October 2009, Captain Middleton submitted a voluntary Board of Inquiry waiver wherein he acknowledged that, as a retirement eligible officer, he could be retired in the last grade satisfactorily held based on his misconduct. Captain Middleton enlisted on 19 June 1986 and was commissioned a chief warrant officer-2 on 1 August 2003. He is currently an LDO captain with a date of rank of 1 March 2007. He has completed 20 years of active service and is qualified to retire as a chief warrant officer-3 according to Section 1293 of reference (g). Chief Warrant Officers (CWO) of any rank may retire upon reaching 20 years of total service; however, once a CWO becomes an LDO, the officer's minimum service requirements change. Per Section § 6323 of reference (g), all officers, including LDOs, must serve a minimum of 20 years in order to be eligible for retirement of which at least 10 years must have been as a commissioned officer. This 10 year period is calculated, for LDOs, from the time of commissioning as a chief warrant officer-2. Since Captain Middleton does not have 10 years commissioned service, he is only eligible to retire as a chief warrant officer-3. The waiver provided in Section 6323 of reference (g), to reduce the requirement to serve at least ten years to a period of not less than eight years, expired on 31 December 2008 and was not extended.

d. On 23 November 2009, the Commander, Marine Corps Base Quantico recommended Captain Middleton be retired in the lesser grade of chief warrant officer-2.

e. On 4 December 2009, Captain Middleton submitted a statement wherein he apologizes for his actions and says that he has learned from his mistakes.

f. On 10 December 2009, the Commanding General, Marine Corps Combat Development Command recommended Captain Middleton be retired in the lesser grade of chief warrant officer-2.

3. After careful review of the applicable law and regulations, the command investigation, the report and transcript of the NJP, Captain Middleton's Board of Inquiry waiver, and the chain of

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command endorsement, I concur with the chain of command and recommend that Captain Middleton be retired in the lesser grade of chief warrant officer-2. His misconduct was not an isolated lapse in judgment, but rather a disturbing and systematic pattern of objectionable behavior over a prolonged period of time and constituted a significant departure from that expected of an officer of his grade and experience. Accordingly, I recommend approval of Captain Middleton's Board of Inquiry waiver and retirement in the lesser grade of chief warrant officer-2.

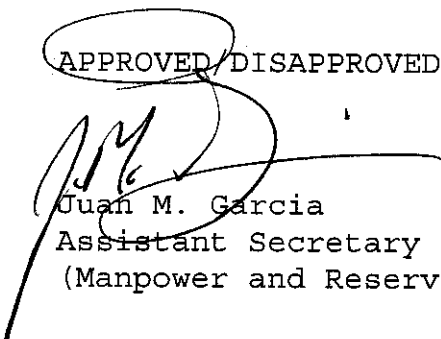
4. In accordance with reference (e), I recommend that Captain Middleton be retired in the lesser grade of chief warrant officer-2. Your approval of this recommendation below will effect the recommended action. The separation code will be RNC1 - Retirement Voluntary - Unacceptable Conduct (Moral/Professional Dereliction).



S. E. MURRAY
Deputy Commandant for
Manpower and Reserve Affairs
Acting

APPROVED / DISAPPROVED

JAN 29 2010



Juan M. Garcia
Assistant Secretary of the Navy
(Manpower and Reserve Affairs)