



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
2 NAVY ANNEX
WASHINGTON, DC 20380-1775

IN REPLY REFER TO:
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SECOND ENDORSEMENT on SMBR ltr 1920 SJA of 21 Jun 04

From: Commandant of the Marine Corps
To: Assistant Secretary of the Navy (M&RA)

Subj: REPORT OF BOARD OF INQUIRY IN THE CASE OF (b)(6)
(b)(6) USMCR

1. Forwarded for review and final action.
2. The basic correspondence is the Board of Inquiry (BOI) report in (b)(6) case.
3. A brief chronology of this case follows:
 - a. On 23 June 2003, while serving as a Combined Anti-Armor Platoon Commander in Iraq, (b)(6) and (b)(6) Marines detained four Iraqi men for looting. (b)(6) directed that the men be searched, stripped of their clothes (except for their shoes and underwear), and then released.
 - b. On 28 June 2003, (b)(6) and (b)(6) Marines fired upon and disabled a truck that attempted to speed through their checkpoint. Two Iraqi men, wounded by the Marines' fire, were given medical treatment and evacuated. The vehicle was searched for possible intelligence and intelligence support was requested. While searching the vehicle, the Marines uncovered clothing and seat cushions described as filthy and covered with unidentified stains. When it appeared that no intelligence could be gathered from these articles, (b)(6) ordered them burned. (b)(6) explained that this precautionary measure was intended to prevent the spread of fleas, lice, fruit flies and the disease *leishmaniasis*, an ailment becoming more common among the military in Southwest Asia. (b)(6) also contended that such articles were commonly used by insurgents to conceal explosives on the sides of roads in other parts of Iraq. All other confiscated articles were turned into military intelligence.
 - c. On 1 August 2003, the Commanding General, 1st Marine Division imposed nonjudicial punishment upon (b)(6) and found (b)(6) guilty of violating Articles 103 (failing to report

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and turn over captured property) and 133 (conduct unbecoming) of the Uniform Code of Military Justice. The Commanding General, 1st Marine Division awarded (b)(6) forfeiture of \$2,034.00 pay per month for 1 month and a Letter of Censure. (b)(6) did not appeal (b)(6) nonjudicial punishment.

d. On 6 August 2003, (b)(6) submitted an unqualified resignation in lieu of administrative separation processing for cause. (b)(6) acknowledged that if (b)(6) resignation request was approved, (b)(6) service would be characterized as Honorable.

e. On 8 October 2003, (b)(6) was demobilized and returned to the cognizance of U.S. Marine Corps Forces, Reserve.

f. On 9 October 2003, my predecessor recommended that (b)(6) resignation request be approved and that (b)(6) be separated with an Honorable characterization of service.

g. On 6 November 2003, you disapproved (b)(6) resignation request and directed (b)(6) to show cause for retention at a board of inquiry.

h. On 1 December 2003, my predecessor directed the Commander, U.S. Marine Corps Forces, Reserve to convene a board of inquiry.

i. On 6 April 2004, the board of inquiry substantiated the allegations of misconduct and recommended that (b)(6) be separated with an Honorable characterization of service. However, one of the members submitted a minority report in which he substantiated the allegations of misconduct but recommended retention.

j. On 19 July 2004, Commander, Marine Forces Reserve recommended that the findings of the board of inquiry be approved and that (b)(6) be separated with an Honorable characterization of service.

4. After careful review of the applicable law and regulations, (b)(6) statements during (b)(6) nonjudicial punishment, the statements of (b)(6) character witnesses, the transcript of the board of inquiry and the recommendations of the chain of command, I am satisfied that (b)(6) involuntary

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separation with an Honorable characterization of service should be approved.

5. In accordance with reference (a), I recommend that you approve (b)(6) involuntary separation, and that (b)(6) service be characterized as Honorable. Your approval of this recommendation will effect the recommended action. The separation code will be GNC1 (b)(2)High.

H. P. Osman

H. P. OSMAN
Deputy Commandant for
Manpower and Reserve Affairs

SEP --8 2004

APPROVED/~~DISAPPROVED~~

W. A. Navas, Jr.
William A. Navas, Jr.
Assistant Secretary of the Navy
(Manpower and Reserve Affairs)