



THE NAVIGATOR

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WHAT THE WORLD NEEDS NOW: Fairness in Military Administrative Justice

Unknown to many Servicemembers is the dual justice system in the military. [Administrative justice](#) allows the military to “[punish](#)” Servicemembers for the rest of their lives. An excellent example is [two Marines](#) recently acquitted of all but one lesser charge, for which they received no punishment. Despite the acquittal and no punishment, they now face a reduction in their retirement rank and the loss of hundreds of thousands of dollars in retirement over the course of their life.

Marine Gunnery Sergeants Josh Negron and Danny Draher were involved in drunken brawl in Iraq that ended with the death of a former Green Beret. Negron and Draher (and a Navy Chief Petty Officer) were charged with involuntary manslaughter, negligent homicide, and dereliction in the performance of duties and court-martialed. They were acquitted of all charges but for violating a lawful general order by consuming alcohol while deployed to Iraq. The court-martial panel chose not to impose a punishment for the conviction.

Having received no punishment, and being retirement eligible, the two Marines requested to retire. The Marine Corps Deputy Commandant for manpower and reserve affairs disapproved their request pursuant to Marine Corps Order 1900.16 citing “the integrity of due process and protecting the rights of the Marines.” The decision triggered an administrative separation board. After hearing evidence, the Board (consisting of a USMC Special Operations Command Colonel, Lieutenant Colonel, and a Master Gunnery Sergeant), recommended Negron and Draher retire with Honorable discharges as Gunnery Sergeants.

However and because of the administrative nature of the existence of all Service members, the Marine Corps still has the opportunity to reduce these Marines’ rank as a purely administrative decision ([see](#) para. 6106 and 7012). The Marine Corps can reduce the rank of these (and all enlisted) Marines by evaluating nature and severity of the misconduct and its relationship to and effect upon the performance of military duties; (b) all performance evaluations and other portions of the service record bearing on performance in the current pay grade, and whether the misconduct was known by the reporting seniors, and if not, what effect, if any, it might have had on the respondent’s records; (c) time in current grade and its relationship to the time of the misconduct; and (d) other relevant matters presented by the record of the respondent.

The due process afforded Negron and Draher through the criminal court-martial process – beyond a reasonable doubt, resulted in acquittals and a conviction with no punishment. The matter should have been closed and the Marines allowed to retire just as the administrative separation board recommended to the Marine Corps. But, using their near total administrative powers, the Marine Corps can second guess the court-martial process – giving them an “out,” and level a “punishment” on these Marines that in many ways is far more damaging for far longer.

Regrettably, this process is used far more often than this publicized case. Servicemembers face lifelong roadblocks and financial repercussions for acts one hand handed down punishment, but the other hand decided was not enough, or too light, or not what would play well in the press (think sexual assault allegations).

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With more than 100 years of combined experience, the attorneys of MNB Meridian Law, Ltd. are the Nation's foremost experts on military administrative law and the effects of administrative punishment on current Service members, as well as the life-long 2nd and 3rd order effects these issues will have on their post service lives. There is no reason to face an investigation, reprimand, relief from duty, administrative separation, ADSEP board, or other adverse action alone. MNB Meridian Law was purpose built to stand with you as you navigate the issues and defend your career, pay, benefits, entitlements, and reputation.

