



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 6553-98

18 August 1999

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps Reserve filed enclosure (1) with this Board requesting that the record be corrected to show that he transferred to the Retired Reserve vice being discharged.

2. The Board, consisting of Mr. Pfeiffer, Mr. Tew and Ms. Moidel, reviewed Petitioner's allegations of error and injustice on 17 August 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

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

b. Enclosure (1) was filed in a timely manner.

c. Petitioner reenlisted in the Marine Corps Reserve for three years on 30 April 1992 in the grade of MSGT (E-8). At the time of reenlistment he was serving on extended active duty. On 1 January 1993 he was promoted to MGYSGT (E-9). At the end of his anniversary year on 16 April 1995 he was credited with 21 years of qualifying service for reserve retirement.

d. Petitioner's three year enlistment expired on 29 April 1995 and there are no extensions in the record. Therefore, he apparently had no status in the Marine Corps Reserve after that date. However, he continued to serve on active duty until he was released from active duty on 28 September 1995. A Career

Retirement Credit Report (CRCR) provided by Headquarters Marine Corps shows 168 active duty points but he has only been credited with service from the end of his anniversary year until the expiration of his enlistment on 29 April 1995, a period of about 13 days.

e. The Board did not request an advisory opinion in this case. However, the Board is aware that Headquarters Marine Corps has routinely recommended corrective action in similar cases where an individual was eligible for reserve retirement but had been discharged and there is no explanation why this occurred.

f. The Board is aware that the Uniform Retirement Date Act, 5. U.S.C. 8301 requires that the effective date of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Since there are no extensions of enlistment in the record and HQMC has not given him any retirement credit after 29 April 1995, the Board concludes that the record should be corrected to show that he extended his enlistment for a period of six months. With this correction, his expiration of enlistment will be 29 October 1995.

Since Petitioner was in good standing in the Marine Corps Reserve and would have been retired if he requested it prior to discharge, the Board concludes that his record should be corrected to show that he transferred to the Retired Reserve in the grade of MGYSGT. Given the requirements of the Uniform Retirement Date Act the Board further concludes that the retirement should be effective on 1 October 1995. With this correct, the record will show that he served on active duty until 28 September 1995, at which time he was released from active duty and was in an inactive status until his retirement on 1 October 1995.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Retired Reserve.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he extended his three year enlistment in the Marine Corps Reserve of 30 April 1992 for a period of six months.

b. That Petitioner's naval record be further corrected to show that he transferred to the Retired Reserve on 1 October 1995 vice being discharged on 29 October 1995 or any other date.

c. That this Report of Proceedings be filed in Petitioner's naval record.

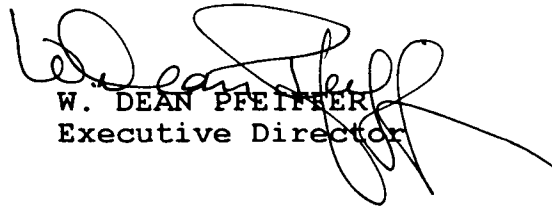
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director