



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TRG  
Docket No: 4176-99  
8 March 2001

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

Subj: REVIEW OF NAVAL RECORD, NO [REDACTED]

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

Encl: (1) DD Form 149 w/attachments  
(2) HQMC Memo MMSR-5J of 9 Feb 01  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Naval Reserve filed enclosure (1) with this Board requesting that his record be corrected to show a qualifying year for reserve retirement in the anniversary year ending 17 November 1981.

2. The Board, consisting of Mr. Pfeiffer, Mr. Kastner and Mr. Dunn reviewed Petitioner's allegations of error and injustice on 6 March 2001 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. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Marine Corps Reserve on 18 November 1978. He then earned two qualifying years for reserve retirement. In the third anniversary year, which ended on 17 November 1981, he is credited with four retirement points from correspondence courses, 15 membership points and 15 active duty points for a total of 34 points. Since he has not been credited with 50 points this is not a qualifying year for retirement. During the next year he was discharged from the Marine Corps Reserve in connection with his enlistment in the Regular Marine Corps on 17 August 1982. Petitioner then served on active duty

until he was honorably discharged on 9 July 1991, a period of almost nine years.

d. On 10 July 1991, Petitioner enlisted in the Marine Corps Reserve for two years. Although the record is incomplete, he apparently reenlisted or extended that enlistment because the record shows that he was discharged on 18 August 1994, apparently for the purpose of enlisting in the Army Reserve. The career retirement credit report shows that Petitioner has been credited with a total of 14 years of qualifying service for reserve retirement in the Marine Corps and Marine Corps Reserve.

e. At enclosure (2) is an advisory opinion from Headquarters Marine Corps which states that Petitioner's Official Military Personnel File has been reviewed and a unit diary search was conducted. The review did not uncover any additional documentation that would change the results of the specific anniversary year questioned by Petitioner, 18 November 1980 to 17 November 1981. However, the advisory opinion also states as follows:

... We believe (Petitioner) has a strong case for being awarded the minimum Reserve Retirement points necessary for a qualifying year of service for the following reasons:

(1) Inactive Duty Training (IDT) points have been recorded immediately before and after the anniversary year in question.

(2) No legal action or non-recommendation for promotions is available to indicate anything other than (Petitioner's) satisfactory participation.

(3) (Petitioner) was discharged from the Marine Corps Reserve to augment to the Marine Corps, an event not likely to have occurred if he had not been a satisfactory participant.

... We recommend the following:

The Board for Correction of Naval Records (BCNR) direct Headquarters Marine Corps (MMSR-5) to award (Petitioner) the minimum Reserve Retirement points necessary for a qualifying years of service for the anniversary year 18 November 1980 to 17 November 1981.

...

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. In reaching its decision, the Board notes the comments contained in the advisory opinion but also notes that Petitioner has been credited with a 15 day period of active duty training (ADT) in the anniversary year at issue. The Board believes that the ADT would not have occurred if he had been an unsatisfactory performer. Accordingly, the Board concludes that the recommendation contained in the advisory opinion should be followed. Therefore, Petitioner's naval record should be corrected by adding 16 nonpay retirement points to the anniversary year ending 17 November 1981. When these points are added to the 34 points already of record, he will have 50 retirement points and a qualifying year for retirement.

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

RECOMMENDATION:


- a. That Petitioner's naval record be corrected by adding 16 nonpay retirement points to the anniversary year ending 17 November 1981.
- b. 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.



For W. DEAN PFEIFFER  
Executive Director