



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

BJG
Docket No: 13-01
25 October 2001

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

Subj: EX-CAPT [REDACTED] USMCR, [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 29 Dec 00 w/attachment
(2) Subject's e-mail dtd 7 May 01
(3) HQMC MMPR memo dtd 21 Feb 01
(4) Subject's ltr dtd 5 Mar 01 w/encls
(5) Subject's ltr dtd 10 Sep 01 w/encl
(6) Subject's naval record

1. Pursuant to reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show he was promoted to major, United States Marine Corps Reserve, with a date of rank and effective date of 1 June 1992. By enclosure (2), he amended his application to show he was discharged from the Marine Corps Reserve on 2 October 1992 in the grade of major.

2. The Board, consisting of Messrs. Brezna and Mackey and Ms. Schnittman, reviewed Petitioner's allegations of error and injustice on 24 October 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. Petitioner was discharged from the Regular Marine Corps on 1 December 1990. He accepted a commission in the Marine Corps Reserve on 6 January 1992. He provided correspondence dated 16 March 1992 from the Marine Corps Reserve Support Center (MCRSC) to a recruiter with the Tennessee Air National Guard (TNANG), advising that Petitioner had been discharged. Petitioner states this caused him and the TNANG to believe he had no Marine Corps status. He enlisted in the TNANG on 5 June 1992.

c. In correspondence attached as enclosure (3), the Headquarters Marine Corps office with cognizance over the subject matter of Petitioner's case has commented to the effect that his promotion to major in the Marine Corps Reserve with a date of rank and effective date of 1 October 1992 was nullified because of his enlistment in the TNANG on 5 June 1992.

d. In his letter at enclosure (4), Petitioner reiterated his original request to show he was promoted to major in the Marine Corps Reserve with a date of rank of 1 June 1992, and he again noted the correspondence of 16 March 1992 from the MCRSC. He asked rhetorically whether a reasonable individual would have enlisted in the TNANG if he had had an expectation of promotion to major in the Marine Corps Reserve.

e. By his letter at enclosure (5), Petitioner provided a copy of the decision of the Air Force Board for Correction of Military Records (AFBCMR) in his case. The AFBCMR decisional document reflects that the date of his enlistment in the TNANG was changed from 5 June 1992 to 3 October 1992.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board finds an injustice warranting the requested relief.

In light of the AFBCMR action to show Petitioner did not enlist in the TNANG until 3 October 1992, the Board finds that his previously nullified promotion to major with a date of rank and effective date of 1 October 1992 should be restored; and that his record should be further corrected to show he was discharged from the Marine Corps Reserve on 2 October 1992, the day before his corrected date of enlistment in the TNANG.

In view of the above, the Board directs the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected, where appropriate, to show he was promoted to major in the Marine Corps Reserve, with a date of rank and effective date of 1 October 1992.

b. That Petitioner's record be further corrected to show he was discharged from the Marine Corps Reserve on 2 October 1992 in the grade of major.

c. That any material or entries inconsistent with the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

d. That a copy of this Report of Proceedings be filed at an appropriate location in Petitioner's naval record, and that another copy of this report be returned to this Board,

together with any material directed to be removed from Petitioner's record, for retention in a confidential file maintained for such purpose.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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

Jonathan S. Ruskin
JONATHAN S. RUSKIN
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
W. DEAN PFEIFFER
Executive Director