



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

TRG
Docket No: 4063-01
13 June 2001

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) Case Summary
(2) 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 an application with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 28 April 1997.

2. The Board, consisting of Ms. McCormick, Ms. Wiley and Mr. Leeman, reviewed Petitioner's allegations of error and injustice on 12 June 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's application was filed in a timely manner.

c. Petitioner reenlisted in the Marine Corps Reserve on 28 May 1992 for three years. On 7 January 1995 he extended his enlistment for 20 months to meet the obligated service requirement for promotion to 1stSGT (E-8). He subsequently, extended his enlistment for another period of three months. The anniversary years ending 7 February 1996 and 1997 are qualifying for reserve retirement. On 21 February 1997, he was notified of his eligibility for retired pay at age 60. He was honorably discharged on 28 April 1997 at the expiration of his enlistment as extended.

d. 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 when an individual is eligible for reserve retirement and there is no explanation in the record why an individual was discharged and not retired.

e. The Board is also 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. The Board notes that Petitioner was in good standing in the Marine Corps Reserve and would have been retired if he had requested it. The Board concludes that Petitioner's record should be corrected to show that he transferred to the Retired Reserve in the grade of 1stSGT. Given the requirements of the Uniform Retirement Date Act, he should be retired effective 1 April 1997 vice being discharged on 28 April 1997.

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 transferred to the Retired Reserve on 1 April 1997 in the grade of 1stSGT vice being discharged on 28 April 1997.

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.

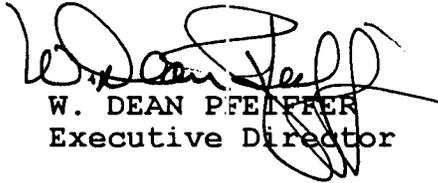
ROBERT D. ZSALMAN
Recorder



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.



W. DEAN PEIFER
Executive Director