



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

ELP
Docket No. 4356-00
18 June 2001

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

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

Encl: (1) Case Summary
(2) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Marine Corps Reserve, applied to this Board requesting, in effect, that his reenlistment in the Marine Corps Reserve on 12 April 2001 be backdated to 15 April 2000.

2. The Board, consisting of Mr. Leeman, Ms. Wiley and Ms. McCormick 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 to the Board was filed in a timely manner.

c. Petitioner's record reflects that he reenlisted in the Marine Corps Reserve on 25 April 1996 for two years as a SGT (E-5). He was promoted to SSGT (E-6) on 1 January 1997.

d. On 25 June 1998, Petitioner extended his enlistment for three months to have sufficient obligated service to affiliate with the Selected Marine Corps Reserve. Two previous extensions are not filed in the record.

e. Petitioner had two periods of active duty for special work, from 9 February to 31 March and 16 June to 14 August 1999. Petitioner submitted a request to reenlist on 26 August 1999. However, Headquarters, Marine Corps (HQMC) denied his request because a fitness report for the period 11 May to 12 July 1996 was never filed in his record. He was granted a six month extension to resolve this gap.

f. Petitioner extended his enlistment on 15 September 1996 for an additional period of six months in order to retrieve the missing fitness report. The Agreement to Extend Enlistment on file indicated that his current enlistment commenced on 14 April 1995.

g. Petitioner was on active duty for special work from 15 October 1999 to 1 March 2000. Information provided by HQMC showed Petitioner was discharged on 15 April 2000 at the expiration of enlistment, as extended. At that time, he had a total of 13 qualifying years in the Marine Corps Reserve.

h. On 7 June 2000, Petitioner's prior commanding officer submitted the missing fitness report and it was placed into the fitness report system on 26 June 2000.

i. At enclosure (1), an advisory opinion from the Reserve Affairs Division, Career Management Team (CMT), HQMC, states that at no time did Petitioner request an additional extension to remain in the Marine Corps Reserve until the date gap surrounding the missing fitness report was resolved. The CMT recommended that Petitioner contact his prior-service recruiter and request a waiver to rejoin the reserves. The CMT recommended that his request for correction of his record to show no break in service be denied.

j. A copy of the foregoing advisory opinion was sent to Petitioner for response but was returned as "undeliverable" by the Post Office even though it was mailed to a valid address. The opinion was subsequently faxed to Petitioner after he inquired about his application. At that time, he stated he would comply with HQMC's recommendation and submit a request to reenlist.

k. Petitioner submitted a request to reenlist on 28 December 2000. HQMC approved a two year reenlistment on 6 March 2000 and he was reenlisted on 12 April 2001.

1. Petitioner now requests that his date of reenlistment be backdated to 15 April 2000, the date he would have reenlisted had it not been for the missing fitness report.

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 the fitness report in question was for a two month period that occurred nearly four years earlier. The Board is well aware of the effect a fitness report has on promotion, but finds it disturbing that such a minor administrative matter was grounds for denying reenlistment. Normally, reenlistment is denied for more egregious reasons, i.e., unsatisfactory drill participation, poor performance and conduct, etc. Although the Board believes Petitioner bears some responsibility in this matter and should have pursued the matter of obtaining the missing fitness report more aggressively, contacting a past reporting senior after four years probably was difficult. The fact that it took nearly a year from the date of his discharge until he was reenlisted was by no means totally within his control. The Board believes he should not be penalized by a break in service.

If the date of the current reenlistment is simply backdated, Petitioner would have already completed more than half of his two-year enlistment. Accordingly, the Board believes that it would be appropriate and just to correct the record to show that he was reenlisted on 15 April 2000 for three years rather than on 12 April 2001 for two years. Additionally, since he was participating actively in the reserves, the Board concluded that he should be awarded 35 inactive duty non-pay points for the period April 2000 to April 2001. When combined with the 15 membership points awarded to all reservists, this action will ensure that this period counts as a qualifying year for reserve 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 and the crediting of the retirement points.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by showing he reenlisted in the Marine Corps Reserve for three years on 15 April 2000 vice the two-year reenlistment on 12 April 2001 now of record.

b. That he be awarded 35 inactive duty non-pay points to complete a qualifying year for the period from April 2000 to April 2001.

c. That a copy of 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. The foregoing action of the Board is submitted for your review and action.



W. DEAN PFEIFFER



JUL 16 2001

JOSEPH G. LYNCH
Assistant General Counsel
(Manpower And Reserve Affairs)