



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

TRG
Docket No: 7294-00
8 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) DD Form 149 w/attachments

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the United States Marine Corps Reserve filed enclosure (1) with this Board requesting that his record be corrected to show qualifying years for reserve retirement during the period 4 August 1967 through 3 August 1971.

2. The Board, consisting of Mr. Ensley, Mr. Pfeiffer and Mr. Cooper, reviewed Petitioner's allegations of error and injustice on 5 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. Although it appears that Petitioner's application 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's record has been lost. Research conducted by Headquarters Marine Corps and documentation submitted by Petitioner has resulted in the issuance of a statement of service and a Reserve Retirement Master Control Card. These documents show that Petitioner enlisted in the Marine Corps Reserve on 9 August 1965 and that he completed initial training by serving on active duty for 184 days. Therefore, in his first anniversary year, he has been credited with 184 active duty points and 15 membership points and the year is qualifying for reserve retirement. In the next four anniversary years, covering the period from 9 August 1966 to 8 August 1970, he has been credited

with either 14 or 16 months from active duty for training (ACDUTRA) and 15 membership points. However, he has not been credited with any reserve drills and, with the addition of the membership points, the record shows a total of either 29 or 31 retirement points in those four years, which is less than the 50 points needed to make those years qualifying for reserve retirement. In the last anniversary year, ending 8 August 1971, he has only been credited with membership points. He was honorably discharged in the grade of SGT (E-5) on 8 August 1971.

d. Petitioner enlisted in the Army Reserve on 29 October 1986 after a break in service of over 15 years. Since then he had earned qualifying years for reserve retirement every year and is currently a reservist on active duty in the grade of CWO3.

e. Petitioner will be 60 years old on 27 October 2003 and is concerned that he may not be able to qualify for reserve retirement if he is not credited with additional qualifying years for his service in the Marine Corps Reserve. He states that he has been trying to get this retirement point problem resolved since he enlisted in the USAR in 1986. He contends that he performed reserve drills during the period from 5 August 1966 through 4 August 1971, and he should be credited with 48 drill points in each of those anniversary years and five qualifying years for reserve retirement. He points out that if he had not been attending drills, he would not have been promoted and issued ACDUTRA orders, and would have been involuntarily recalled to active duty and sent to Vietnam. With his application Petitioner has submitted Wage and Tax Statements from the Marine Corps Finance Center for the years 1965, and 1967 through 1971. These statements show that he received wages for unspecified reasons, but apparently drill attendance, in each of those years.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board agrees with Petitioner that he would not have been promoted or issued ACDUTRA orders if he had not been attending drills. In addition, the wage and tax statements suggest that he was paid for drills, although the number of drills is not stated. Given the circumstance, the Board believes that the record should be corrected to show that he attended drills while in the Marine Corps. Since the number of drills he attended cannot be verified, the Board concludes that he should be credited with the minimum number of nonpay drills to make each of the anniversary years, from 9 August 1966 until his discharge on 8 August 1971, qualifying for reserve retirement. Nonpay drills are appropriate because if he was paid at the time, authorizing pay drills at this time would result in double

payment.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's reconstructed naval record so that all future reviewers will understand the basis for the crediting of the reserve drills.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was credited with the minimum number of nonpay drills in each of the five anniversary years from 9 August 1966 to 8 August 1971 to make those years qualifying for reserve retirement.

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