



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

TRG
Docket No: 8148-00
13 April 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 17 May 1996.

2. The Board, consisting of Mr. Leeman, Mr. Beckett and Ms. Humberd, reviewed Petitioner's allegations of error and injustice on 10 April 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. On 18 May 1994, Petitioner reenlisted in the Marine Corps Reserve for two years in the grade of GYSGT (E-7). The Career Retirement Credit Report (CRCR) shows that at the end of his anniversary year on 4 September 1995, he had completed 20 years of qualifying service. He was honorably discharged at the expiration of his enlistment on 17 May 1996.

d. The Board did not request an advisory opinion in this case. However, the Board is aware that Headquarters Marine Corps

has routinely recommended favorable action in similar cases when 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 first day 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. Therefore, the Board concludes that he should be transferred to the Retired Reserve in the grade of GYSGT. Given the requirements of the Uniform Retirement Date Act, the Board further concludes that he should be transferred to the Retired Reserve effective 1 May 1996 vice being discharged on 17 May 1996.

The Board also 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 Marine Corps Reserve.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Retired Reserve in the grade of GYSGT effective 1 May 1996 vice being discharge on 17 May 1996.

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.

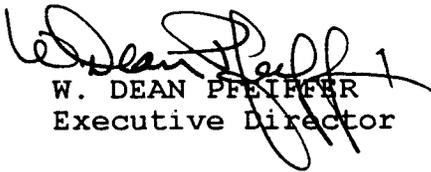
ROBERT D. ZSALMAN
Recorder



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 PFEIFFER
Executive Director