



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

TRG
Docket No: 5554-00
17 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) DD Form 149 w/attachments
(2) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former commissioned officer in the United States Marine Corps Reserve filed enclosure (1) with this Board requesting that his record be corrected to show that he qualified for reserve retirement and transferred to the Retired Reserve vice being discharged on 1 June 2000.

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. Enclosure (1) was filed in a timely manner.

c. Petitioner was honorably discharged from the Marine Corps on 1 October 1992 and was paid separation pay in the amount of \$55,296.27. At that time, he was credited with 15 years of active and reserve service, which was qualifying for reserve retirement. He was then commissioned in the Marine Corps Reserve. Subsequently, he was promoted to MAJ (O-4).

d. The record shows that Petitioner earned qualifying years for reserve retirement in the four anniversary years beginning on 11 January 1993 and ending on 10 January 1997. He only earned membership points in the next two anniversary years which ended

on 10 January 1999. The next anniversary year is qualifying for reserve retirement. He was honorably discharged on 1 June 2000 because he had completed 20 years of commissioned service and had twice failed of selection to LTCOL (O-5). The 15 qualifying years he had earned as of 11 October 1992, when added to the five subsequent qualifying years means that he has 20 qualifying years for reserve retirement. However, he is not eligible for such retirement because he does not have the last six qualifying years in the reserve component.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board believes that Petitioner earned qualifying years with the intent of qualifying for reserve retirement, but was apparently unaware of the requirement that the last six qualifying years be in the reserve component. Since he is so close, the Board concludes that the record should be corrected to make him eligible for reserve retirement.

This action can be accomplished by transferring 35 retirement points from the excess over 50 in prior anniversary years to the anniversary year ending 10 January 1999. With this action, he will have 20 qualifying years and the last six qualifying years in the reserve component and will be eligible for reserve retirement at age 60. The record should be further corrected to show that he transferred to the Retired Reserve effective 1 June 2000 vice being discharged on that date.

The Board further concluded that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand Petitioner's status in the Retired Reserve.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected by transferring 35 retirement points from prior anniversary years to the anniversary year ending 10 January 1999 to make that year qualifying for reserve retirement.
- b. That Petitioner's naval record be further corrected to show that he transferred to the Retired Reserve effective 1 June 2000 vice being discharged on that date.
- c. 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