



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

TRG
Docket No: 6492-02
15 April 2003

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 in the Marine Corps Reserve, filed an application with this Board requesting that his record be corrected to show additional retirement points in the anniversary year ending 21 December 1979.

2. The Board, consisting of Mr. McPartlin, Mr. Pfeiffer and Mr. Milner, reviewed Petitioner's allegations of error and injustice on 8 April 2003 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 enlisted in the Marine Corps Reserve on 22 December 1975. During the next three anniversary years, ending on 21 December 1976, 1977 and 1978, he earned 148, 76 and 75 retirement points, respectively. In the fourth anniversary year, ending on 21 December 1979, he has only been credited with 15 points for annual training and 15 membership points, for a total of 30.

d. Petitioner was honorably discharged from the Marine Corps Reserve on 5 January 1980 so that he could enlist in the

National Guard the next day. He has submitted evidence showing that he then completed 17 consecutive qualifying years for reserve retirement and has been promoted to sergeant first class. He contends that evidence of record such as his period of annual training, rifle qualification on 8 August 1979 and fitness reports, show he was attending drills.

e. Petitioner's fitness report for the period 1 October 1978 to 30 September 1979 shows that during this period, he attended 43 drills. The next fitness report for the period 1 October 1979 to 2 January 1980 shows that during this period he attended 12 drills. As indicated, Petitioner's anniversary year runs from 22 December until 21 December of the following year. Assuming that he earned four year drills in each month during the period from 1 October to 21 December 1978, when those 12 drills are subtracted from the 43 drills entered on the fitness report for the period ending 30 September 1979, 31 drills are remaining. The 31 drills when added to the 12 drills entered on the fitness report for the period including 1 October to 21 December 1979, raises the total back to 43 drills.

f. Headquarters Marine Corps (MMSR-5) does not make any specific recommendation but essentially states that since the points cannot be documented following a unit diary search, only the Board can credit any additional retirement points.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Since the excellent fitness reports and other documentation in the record shows that Petitioner was present and attending drills, it appears that Petitioner was attending drills during the anniversary year at issue. Accordingly, Petitioner should be credited with 43 nonpay drill points in the anniversary year ending 21 December 1979. Nonpay points are appropriate because he was probably paid for those points at the time.

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 reason for the change in the retirement point total.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected by crediting him with 43 nonpay retirement points in the anniversary years ending 21 December 1979.
- b. That this Report of Proceedings be filed in Petitioner's

naval record.

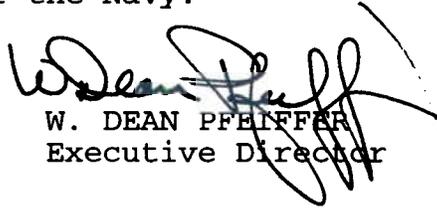
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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