



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

TRG
Docket No: 2600-03
1 May 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 that he transferred to the Retired Reserve, vice being discharged.

2. The Board, consisting of Mr. Harrison, Mr. Frankfurt and Mr. Nicholson, reviewed Petitioner's allegations of error and injustice on 29 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 limitation and review the application on its merits.

c. On 29 March 1988 Petitioner was issued a Notification of Eligibility for Retired Pay at Age 60. About nine months later, on 13 January 1989, he was promoted to master gunnery sergeant (MGYSGT; E-9). He then served consecutive qualifying years through the anniversary year ending on 23 February 1994. On 17 October 1993, he reenlisted for a period of two years. He apparently transferred to the Individual Ready Reserve during this period because he has been credited with no further qualifying years. He was honorably discharged on 15 September 1995. The Career Retired Credit Report shows more than 29 years

of total service and 26 years of qualifying service for reserve retirement.

d. The Board did not request an advisory opinion in this case. However, the Board is aware that Headquarters Marine Corps has routinely recommended corrective action when an individual is qualified for reserve retirement and there is no explanation in the record why he was discharged and not retired.

e. The Board is aware that the Uniform Retirement Date Act, 5 U.S.C. 8301 requires that the effective date 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 the record should be corrected to show that he transferred to the Retired Reserve in the grade of MGYSGT. Given the requirement of the Uniform Retired Date Act, the retirement should be effective on 1 September 1995.

The Board further 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 Retired Reserve.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Retired Reserve in the grade of MGYSGT effective on 1 September 1995 vice the discharge of 15 September 1995 now of record.

b. That this Report of Proceedings be filed in Petitioner's naval record.

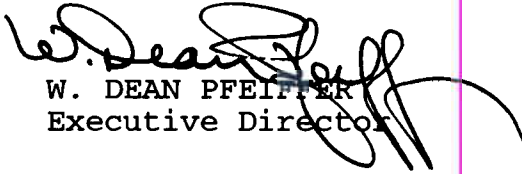
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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