



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

TRG
Docket No: 11286-06
5 April 2007

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. [REDACTED], Mr. [REDACTED] and Ms. [REDACTED], reviewed Petitioner's allegations of error and injustice on 27 March 2007 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 reenlisted in the Marine Corps reserve on 22 February 1984 in the grade of GYSGT. On 22 April 1987, he reenlisted for three years. The Reserve Retirement Credit Report provided by Headquarters Marine Corps shows that at the end of his anniversary year on 18 October 1987, he had completed 20 years and 2 days of qualifying service for reserve retirement purposes. He was honorably discharged on 21 April 1990 at the expiration of his enlistment.

d. Attached to enclosure (1) is an advisory opinion from Headquarters Marine Corps that recommends that Petitioner's

record be corrected to show that he transferred to the Retired Reserve. Petitioner was born on 31 December 1947 and will not be eligible to transfer to the Retired List until 31 December 2007.

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. Petitioner was in good standing in the Marine Corps Reserve and would have been retired if he had requested it prior to the expiration of his enlistment. Therefore, the Board agrees with the recommendation contained in the advisory opinion. Accordingly, Petitioner's record should be corrected to show that he transferred to the Retired Reserve in the grade of GYSGT. Given the requirements of the Uniform Retirement Date Act, the retirement should be effective on 1 April 1990 vice the discharge of 21 April 1990 now of record.

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 GYSGT effective on 1 April 1990 vice the discharge of 21 April 1990 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