

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

[REDACTED]  
Docket No: 2018-07  
14 December 2007

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy  
  
Subj: REVIEW OF NAVAL RECORD OF  
  
Ref: (a) Title 10 U.S.C. 1552  
  
End: (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 has 20 years of qualifying service and transferred to the Retired Reserve and to the Retired List vice being discharged.

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 4 December 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 consider the application on its merits.

c. Petitioner reenlisted in the Marine Corps Reserve on 31 August 1984 for two years in the grade of master sergeant (MSGT; E-8). On 9 September 1984, he received nonjudicial punishment for use of marijuana and was awarded an oral admonition. He continued to serve and during the period from 16 to 29 June 1985, he completed a period of annual training duty. He was honorably discharged on 30 August 1985 at the expiration of his enlistment. At that time, he was credited with 18 years, 11 months and 14 days of qualifying service for reserve retirement. He became 60 years of age on 11 September 2005.

d. A review of Petitioner's Reserve Retirement Master Control Card shows that his anniversary year ended on 8 September of each year. Since he had 74 retirement points in his last partial anniversary year ending on 30 August 1985, the date of his discharge, he was only a few days short of completing another anniversary year which would raise his total qualifying years to 19. Additionally in the anniversary years ending on 8 September 1970 and 8 September 1976, he was only credited with 39 and 42 retirement points of the 50 points required for another qualifying year.

e. Petitioner states that at the time of his discharge he was told that he was qualified for retirement and because of his personal situation at the time he did not follow up on the retirement paperwork.

f. 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 errors occurred which prevented retirement.

g. 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. Given Petitioner's many years of good service and the fact that he is so close to retirement eligibility, the Board concludes that the record should be corrected to show that he is eligible for reserve retirement.

Therefore, Petitioner's record should be corrected by transferring eight retirement points from the excess over 50 in the anniversary year ending on 8 September 1975 into the anniversary year ending on 8 September 1976. With this correction he will have over 19 years, 11 months of qualifying service. Since Petitioner was nine days away from completing his last anniversary year and he must retire effective on

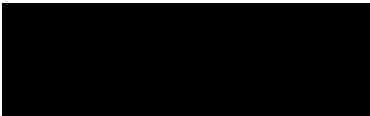
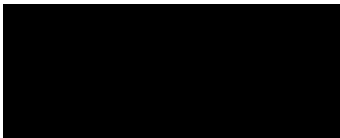
the first of the month, the Board concludes that his record should be further corrected to show that he extended his last enlistment for the minimum period of one month. With these corrections, he will have 20 years of qualifying service.

Petitioner was in good standing in the Marine Corps Reserve and would have been retired if he had 20 qualifying years and had requested it in sufficient time prior to the expiration of his enlistment. Therefore, the Board concludes that Petitioner's record should show that he transferred to the Retired Reserve in the grade of MSGT. Given the requirements of the Uniform Retirement Date Act, the retirement should be effective on 1 October 1985. Since he is now 60 years old, the record should be further corrected to show that he transferred to the Retired List on 11 September 2005, his 60th birthday.

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 by transferring eight retirement points from the anniversary year ending on 8 September 1975 into the anniversary year ending on 8 September 1976.
  - b. That Petitioner's record be further corrected to show that he extended his last enlistment for a period of one month.
  - c. That Petitioner's record then be corrected to show that he transferred to the Retired Reserve effective on 1 October 1985, in the grade of NSGT, vice the discharge of 30 August 1985 now of record. His record should then be corrected to show that he transferred to the Retired List on 11 September 2005, his 60th birthday.
  - d. 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.



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 behalf of the Secretary of the Navy.

