



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

TRG
Docket No: 10057-07
17 January 2008

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 commissioned officer in the Marine Corps Reserve filed an application with this Board requesting that his record be corrected to show that he was discharged from the Regular Marine Corps on 1 July 2007 without accepting a reserve commission.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Ms. [REDACTED], reviewed Petitioner's allegations of error and injustice on 15 January 2008 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. Petitioner's application was filed in a timely manner.

c. Petitioner graduated from the United States Naval Academy and was commissioned in the Marine Corps on 26 May 1999. The date of his commission established the ending date of his eight year military obligation as 25 May 2007. On 31 August 2006 he submitted his resignation requesting for a discharge date of 1 July 2007. In his resignation he stated that he did not desire to accept a commission in the Marine Corps Reserve (USMCR). The DD Form 214 issued on 1 July 2007 indicates that he was discharged from the Regular Marine Corps but the narrative reason is "Intradepartmental transfer" which indicates that he had accepted a reserve commission.

d. Petitioner states in his application that he has been improperly placed in the Individual Ready Reserve and points out

that he should not have been because he indicated in his resignation letter that he did not desire a reserve commission.

e. Attached to enclosure (1) is an advisory opinion from Headquarters Marine Corps which concludes that since Petitioner did not request a reserve commission he should not be a member of the USMCR. The opinion recommends that the Board correct the record to show that he was discharged on 1 July 2007 by reason of completion of required active duty with a separation program designator (SPD) of FBK1.

CONCLUSION:

Upon review and consideration of all the evidence of record and the recommendation contained in the advisory opinion, the Board concludes that Petitioner's request warrants favorable action. There is no evidence in the record that Petitioner actually accepted a reserve commission. Without such a commission Petitioner is not a member of the USMCR. Therefore it appears that the DD Form 214 and entries in data bases can be administratively corrected. However, given the favorable advisory opinion and the possibility that a reserve commission may exist, the Board concludes that Petitioner's record should be corrected to show that he was honorably discharged on 1 July 2007 by reason of completion of required active duty with no further reserve obligation.

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 reasons for the correction to the record.

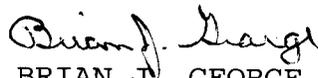
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was honorably discharged on 1 July 2007 by reason of completion of required active duty with an SPD of FBK1.

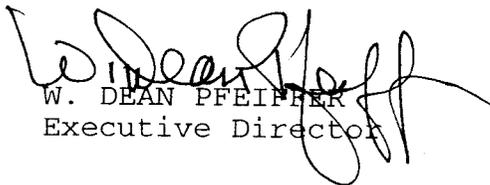
b. That this Report of Proceedings be filed in Petitioner's naval record.

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


BRIAN J. GEORGE
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