



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

Docket No: 11510-08
29 December 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 former enlisted member of the Marine Corps Reserve, filed an application with this Board requesting, in effect, that his record be corrected to show that he qualified for reserve retirement and transferred to the Retired Reserve vice being discharged on 17 June 2008.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Ms. [REDACTED], reviewed Petitioner's allegations of error and injustice on 16 December 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 submitted in a timely manner.

c. Petitioner reenlisted in the Marine Corps Reserve on 18 March 2003 for four years. On 1 September 2006 he was promoted to gunnery sergeant (GySgt; E-7). A 12 month extension of that enlistment became effective on 19 March 2007. At the end of his anniversary year on 19 October 2007 he was credited with 19 consecutive qualifying years for reserve retirement. On 19 March 2008 he was allowed to extend his enlistment for an additional period of three months to "update prerequisites and to correct fitness reports in order to reenlist." However, his enlistment as extended expired on 17 June 2008. Although he was credited with 108 retirement points in the last partial anniversary year

he cannot be credited with a full year because he was discharged prior to 19 October 2008.

d. The Board did not request an advisory opinion in this case. However, the Board is aware that Headquarters Marine Corps has routinely recommended transfer to the Retired Reserve when an individual is qualified for reserve retirement and errors occurred which prevented retirement.

e. 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 able to retire if he had extended his enlistment on 9 March 2008 for eight months instead of three months now of record. Therefore, the Board concludes that Petitioner's record should show that on 9 March 2008 he extended his enlistment for eight months vice the three months extension on that date now of record. With this extension he will have 20 qualifying years at the end of his anniversary year on 19 October 2008.

The record should then be corrected to show that 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 November 2008.

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:

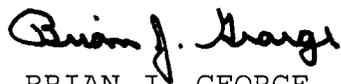
a. That Petitioner's record be corrected to show that on 9 March 2008 he extended his enlistment for eight months vice the three month extension now of record.

b. That Petitioner's record be further corrected to show that he transferred to the Retired Reserve effective on 1 November 2008, in the grade of GySgt vice the discharge of 17 June 2008 now of record.

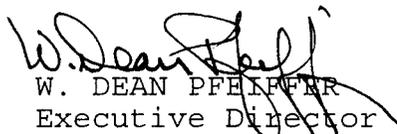
c. That this Report of Proceedings be filed in Petitioner's naval record.

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