



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

TRG
Docket No: 1355-09
18 February 2009

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 two retirement points be transferred from the excess over 50 in the anniversary year ending on 1 July 2006 into the anniversary year ending on 1 July 2007.

2. The Board, consisting of Ms. [REDACTED], Ms. [REDACTED] and Ms. [REDACTED] reviewed Petitioner's allegations of error and injustice on 18 February 2009 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 was promoted to colonel (Col; O-6) on 1 June 2006. He is required to complete three qualifying years in grade in order to retire as a Col. At the end of his anniversary year on 1 July 2006 he was credited with 22 years of qualifying service. In the anniversary year ending on 1 July 2007 he has only been credited with 48 of the 50 retirement points necessary for another qualifying year. In the next anniversary year he has only been credited with membership points.

d. Regulations dictate that reserve officers who are qualified for retirement are required to earn 50 retirement

points in every subsequent anniversary year. Failure to meet this participation requirement requires the member's immediate transfer to the Inactive Status List. As indicated Petitioner now has two consecutive nonqualifying years. Headquarters Marine Corps (HQMC) may waive one nonqualifying year but two nonqualifying years requires a waiver by the Secretary of the Navy.

e. Petitioner states, in effect, that if his 48 point year is made qualifying that HQMC will waive the remaining nonqualifying year and he will be placed in an important billet to help prepare for the unit's deployment and will be attached to the unit when it deploys to Iraq in late April or early May 2009. HQMC has called the examiner assigned to the case and requested expeditious treatment so that the required waiver can be granted and orders issued.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Given the circumstances and the request of HQMC, the Board concludes that corrective action is warranted. Therefore, his record should be corrected by moving two drill points from the anniversary year ending on 1 July 2006 into the anniversary year ending on 1 July 2007. With this correction Petitioner will only have one nonqualifying year since he qualified for reserve retirement.

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 change in the number of qualifying years.

RECOMMENDATION:

a. That Petitioner's record be corrected by transferring two drill points from the anniversary year ending on 1 July 2006 into the anniversary year ending on 1 July 2007.

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