



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

Docket No: 3163-09
25 June 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 member of the Marine Corps Reserve, filed an application with this Board requesting that his records be corrected to show that he had participation in the Individual Ready Reserve (IRR) so that he will be eligible for remedial consideration for promotion to gunnery sergeant.

2. The Board, consisting of Mr. [REDACTED], Ms. [REDACTED] and Ms. [REDACTED] reviewed Petitioner's allegations of error and injustice on 23 June 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, a Marine Corp Reservist, was severely injured during operations in Iraq and has been awarded the Purple Heart. He was released from active duty on 27 February 2004, apparently without proper evaluation of his injuries. Subsequently, he was discharged from the Marine Corps Reserve when he was denied reenlistment. It appears that this occurred because he was considered not physically qualified. On 21 June 2007, based on a favorable recommendation from Headquarters Marine Corps, this Board directed that he be reinstated in the IRR and that a line of duty determination for his injuries be made. When this action was accomplished, Petitioner was ordered to active duty pending evaluation of his condition.

d. Petitioner's Career Retirement Credit Report (CRCR) now shows that he was released from active duty in 2004 and that he was only credited with 15 membership points in the four anniversary years beginning on 22 July 2004 and ending on 21 July 2008. Petitioner is being denied consideration for remedial promotion to gunnery sergeant because he has no participation while in the IRR. He could not participate during the time that he was discharged from the IRR. Petitioner has informed the Board that he has been recommended for physical disability retirement.

CONCLUSION:

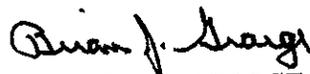
Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Since Headquarters Marine Corps and the Board agree that he should not have been discharged and the record has been corrected to show continuous service, the Board believes that the record should now be further corrected to show that he was credited with 35 nonpay retirement points in each of the four anniversary years beginning on 22 July 2004 and ending on 21 July 2008. When his correction is made, it appears that he will be eligible for remedial consideration for promotion.

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 this record.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected by crediting him with 35 nonpay retirement points in the four anniversary years beginning on 22 July 2004 and ending on 21 July 2008.
- b. That Petitioner be considered for remedial consideration for promotion to gunnery sergeant if otherwise eligible.
- 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