



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

SJN  
Docket No: 08776-09  
22 February 2010

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 with attachments  
(2) Case Summary  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Marine Corps Reserve, filed enclosure (1) with this Board requesting, in effect, that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 1 August 2009.

2. The Board, consisting of Mr. [REDACTED]; Mr. [REDACTED] and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 17 February 2010 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. Enclosure (1) was filed in a timely manner.

c. Petitioner was recalled to active duty and began a period of service on 9 May 2005. He served honorably for over four years and was honorably released from active duty on 1 August 2009 at the completion of his required active service. Prior to his last period of active service, he had completed 27 years of qualifying service and was eligible for retired pay at the age of 60. On 29 January 2010, his career retirement credit record was modified to reflect over 30 years of qualifying service.

d. 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 was discharged prior to requesting transfer to the Retired Reserve.

e. The Uniform Retirement Date Act, 5 United States Code 8301, requires that the effective date of any retirement be the first day of the month following the date of separation.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants relief. Petitioner was in good standing in the Marine Corps Reserve and credited with over 30 years of qualifying service. Therefore, the Board concludes that his record should be corrected to show that he transferred to the Marine Corps Retired Reserve in the grade of master gunnery sergeant (MGySgt, paygrade E-9) with an effective date of 1 September 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 Marine Corps Retired Reserve.

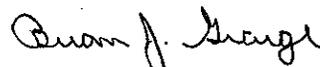
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Marine Corps Retired Reserve effective 1 September 2009, in the pay grade of MGySgt, vice being discharged now of record.

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

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c) 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 Regulation, 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