



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

CRS
Docket No: 2405-10
27 September 2010

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

Subj: FORMER [REDACTED], [REDACTED]; REVIEW
OF NAVAL RECORD

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

Encl: (1) DD Form 149
(2) HQMC memo 1600 CMT, 19 Jul 10
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner applied to this Board requesting that his naval record be corrected to show, in effect, that he was commissioned as a first lieutenant, U.S. Marine Corps Reserve (USMCR) effective 2 May 2009.

2. The Board, consisting of Mr. [REDACTED], Dr. [REDACTED] and Ms. [REDACTED] reviewed Petitioner's allegations of error and injustice on 28 July 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. Petitioner enlisted in the Marine Corps on 12 August 1996. He was honorably discharged on 13 May 2005, and commissioned the following day. He was released from active duty and discharged on 1 May 2009 by reason of completion of required active service, having completed a total 12 years, 8 months and 19 days of active duty service.

c. In correspondence attached as enclosure (2), the Board was advised by the Career Management Team, Headquarters, U.S. Marine Corps (CMT, HQMC), in effect, that as Petitioner did not have

a remaining service obligation on 1 May 2009, he was required to complete a service record book page 11 entry if he wanted to be tendered a commission in the Marine Corps Reserve. Petitioner did not complete such an entry because he had been misadvised by "his personnel section" that "a Reserve commission was automatic"; however, Petitioner should have been familiar with the governing directives and acted accordingly. The CMT, HQMC recommended "[b]ased on the information available", that the Board disapprove Petitioner's request. It noted that he could request to be reappointed through a prior service recruiter.

CONCLUSION:

Upon review and consideration of all the evidence of record, and notwithstanding the unfavorable recommendation contained in enclosure (2), the Board concludes that Petitioner's request warrants favorable action. In this regard, it believes that Petitioner would have been tendered a commission in the Marine Corps Reserve but for the fact that he received erroneous advice from cognizant personnel officials. Accordingly, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 2 May 2009 he was tendered and accepted a commission as a first lieutenant, USMCR and assigned to the Individual Ready Reserve.

b. That a copy of the Record of Proceedings be filed in his 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


JAMES R. EXNICIOS
Acting Recorder

5. The foregoing action of the Board is submitted for your review and action.

W. Dean Peffer
DEAN PEPPER

Approved:

Robert L. Woods 10/1/10

Disapproved:

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