



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

BJG
Docket No: 4761-11
29 September 2011

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 28 Apr 11 w/attachments
(2) CMC MMSR ltr dtd 16 Sep 11
(3) Subj's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, that his naval record be corrected to show two additional qualifying years, so that he will be given an opportunity to qualify for reserve retirement benefits.

2. The Board, consisting of Messrs. Boyd, Exnicios, and Whalen, reviewed allegations of error and injustice on 27 September 2011, 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 which were available under existing law and regulations within the Department of the Navy.

b. Petitioner was discharged from the Marine Corps Reserve on 30 June 1984 with 14 years, one month, and 18 days of commissioned service, but with only seven years of qualifying service. He was then reappointed in the Marine Corps Reserve on 2 April 2002 at age 52. He currently is serving as a lieutenant colonel (pay grade O-5) and has 18 years of qualifying service, but will be 62 years old on 30 October

2011. Only chaplains, medical specialists, and officers in pay grade O-7 or above are allowed to serve beyond the age of 62. His Mandatory Removal Date (MRD) is 31 October 2011. Although he is in the 18 year sanctuary zone, he cannot continue to serve beyond his 62nd birthday. He requested to continue to serve beyond his MRD, but was denied (enclosure (2)).

c. Petitioner has two anniversary years where he did not earn enough points to make them qualifying years for reserve retirement purposes. A qualifying year consists of a minimum of 50 points. These two unsatisfactory anniversary years end on 11 May 1977 and 11 May 1978.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting relief. The Board finds that he is willing to continue to serve, but his age denies him that opportunity. The Board concludes that after 18 qualifying years of service for reserve retirement purposes, it would be unfair to not allow him to retire. In view of the above, the Board recommends the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by moving 21 non-active duty retirement points to his anniversary year ending 11 May 1977, and 22 non-active duty retirement points to his anniversary year ending 11 May 1978, from the excess over 50 points in qualifying years, to raise the total in the two non-qualifying years to 50 points.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of 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 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