



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No. 8495-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER MEMBER [REDACTED]
XXX XX [REDACTED] USMCR

Ref: (a) Title 10 U.S.C. § 1552
(b) MCO P1900.16F

Encl: (1) DD Form 149 w/attachments
(2) Advisory Opinion by HQMC (MMSR-5), 23 Oct 23
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to reflect retired vice discharged, update points creditable for retired pay, and change discharge certificate to reflect First Sergeant vice Master Sergeant.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 9 January 2024 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, relevant portions of Petitioner's naval record, 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, found that, before applying to this Board, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

- a. On 30 December 1977, Petitioner enlisted in the U.S. Marine Corps Reserve.
- b. On 1 January 1995, Petitioner promoted to the rank of First Sergeant (1stSgt)/E-8.
- c. On 29 December 2001, Petitioner earned 24 years of qualifying service for non-regular retirement.
- d. On 19 November 2004, Petitioner discharged at his reserve end of current contract.
- e. In the advisory opinion, attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request has merit and warrants favorable action.

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CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action. Petitioner met the eligibility criteria to transfer to the Retired Reserve awaiting pay at age 60 but failed to request retirement prior to the expiration of his contract, resulting in discharge at reserve end of current contract in accordance with reference (b). Although Petitioner did not complete the proper administrative requirements, the Board determined that under this circumstance, relief is warranted. However, the Board did not consider the correction request for points as Petitioner did not provide evidence that he exhausted administrative recourse with Headquarters U.S. Marine Corps (HQMC).

RECOMMENDATION

That Petitioner's naval record be corrected, where appropriate, to show that:

Petitioner was approved to transfer to the Retired Reserve Awaiting Pay at Age 60 effective 1 November 2004 and issued Retirement Certificate in paygrade 1stSgt/E-8 vice discharged on 19 November 2004 with Honorable Discharge Certificate in paygrade Master Sergeant/E-8.

Petitioner was approved to transfer to the Retired Reserve with Pay effective 20 September 2019. Note: HQMC (MMSR-5) shall provide direction to Petitioner on submitting required forms to process retroactive retirement with pay.

That a copy of this report of proceedings will 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.

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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

1/18/2024

[REDACTED]

Deputy Director

Signed by: [REDACTED]