



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

TRG
Docket No: 2265-99
26 May 1999

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) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps Reserve filed enclosure (1) with this Board requesting that his naval record be corrected to establish eligibility for retired pay at age 60.

2. The Board, consisting of Mr. Kastner, Mr. Mazza and Ms. McCormick, reviewed Petitioner's allegations of error and injustice on 25 May 1999 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. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner reenlisted in the Marine Corps Reserve on 14 February 1990 in the grade of GYSGT (E-7). The record shows that he transferred to the Individual Ready Reserve (IRR) on 22 May 1990. A career retirement credit report in the record dated 6 August 1992 shows that as of the anniversary year ending 18 May 1991, he was credited with 21 years of qualifying service for reserve retirement. He was honorably discharged on 13 February 1993 at the expiration of his enlistment.

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 if an individual was in good standing in the Marine Corps Reserve and there is no explanation in the record why the was discharged and not retired.

e. The Board is aware that the Uniform Retirement Date Act, 5 U.S.C. 8301 requires that the effective date of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner was in good standing in the Marine Corps Reserve at the time of his discharge and would have been retired if he had requested it. Given the circumstances, the Board concludes that the record should be corrected to show that he transferred to the Retired Reserve in the grade of GYSGT, vice being discharged on 13 February 1993. In view of the requirements of the Uniform Retirement Date Act, the Board further concludes that the transfer to the Retired Reserve should be effective on 1 February 1993.

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 correct status in the Retired Reserve.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Retired Reserve in the grade of GYSGT on 1 February 1993 vice being discharged on 13 February 1993.

b. 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


ALAN E. GOLDSMITH
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