



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

TRG
Docket No: 4938-01
12 July 2001

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) Case Summary
(2) 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 an application with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 21 January 1999.

2. The Board, consisting of Mr. Brezna, Mr. Dunn and Mr. Mackey, reviewed Petitioner's allegations of error and injustice on 10 July 2001 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's application was filed in a timely manner.

c. Petitioner reenlisted in the Marine Corps Reserve on 22 April 1991 for six years and subsequently extended that enlistment on several occasions. He was promoted to GYSGT (E-7) on 1 January 1995 and subsequently earned two full qualifying years for reserve retirement and another partial year. On 17 October 1997 he was issued a Notification of Eligibility for Retired Pay at Age 60. About this time, he transferred to the Individual Ready Reserve (IRR). On 22 October 1998 a three month extension became effective for the purpose of submitting a retirement request. The next entry in the record shows that he was honorably discharged on 21 January 1999 at the expiration of his enlistment as extended.

d. On 17 May 2001 Headquarters Marine Corps sent Petitioner a letter advising him to apply to this Board for a correction of the record to show that he transferred to the Retired Reserve vice being discharged.

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 and would have been retired if he had requested it, or if his request had been processed in a timely manner. Therefore, the Board concludes that he should be transferred to the Retired Reserve in the grade of GYSGT vice being discharged on 21 January 1999. Given the requirements of the Uniform Retirement Date Act, the Board further concludes that the transfer to the Retired Reserve should be effective on 1 January 1999.

The Board also 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 January 1999 vice being discharged on 21 January 1999.
- 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