



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

TRG  
Docket No: 5646-01  
24 October 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 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 5 October 1999.

2. The Board, consisting of Mr. Adams, Mr. Pfeiffer and Mr. Morgan, reviewed Petitioner's allegations of error and injustice on 10 October 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 to the Board was filed in a timely manner.

c. On 5 February 1992 Petitioner was issued a Notification of Eligibility for Retired Pay at Age 60. At that time he was serving in the grade of MSGT (E-8). He reenlisted in the Marine Corps Reserve on 25 April 1996 for two years. There are no discharge entries in the record, however, the Career Retirement Credit Report (CRCR) shows that he was discharged on 24 April 1998 at the expiration of his enlistment.

d. Attached to enclosure (1) is a letter from Headquarters Marine Corps that informed Petitioner that although he had been discharged on 5 October 1999, he was still eligible for retired pay at age 60. He was informed that if he wanted to be retired

and not discharged, he needed to submit an application to this Board. The Board did not request a further advisory opinion in this case. However, the Board is aware that Headquarters Marine Corps has routinely recommended corrective action in similar cases when an individual is qualified for reserve retirement and there is no explanation in the record why they were discharged and not retired.

e. As indicated, the CRCR shows that Petitioner was discharged on 24 April 1998. However, the HQMC letter and Petitioner state that he was discharged on 5 October 1999. This discrepancy in dates cannot be resolved based on documentation available to the Board.

f. 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. Therefore, the Board concludes that he should be transferred to the Retired Reserve in the grade of MSGT.

The Board notes that Petitioner may have drilled in April 1998, and a correction to the record showing that he retired on 1 April 1998 could cause him to become indebted for his drill pay he earned later in that month. Therefore, given the requirements of the Uniform Retirement Date Act, the reenlistment of 25 April 1996 should be extended for one month and the retirement should then be effective on 1 May 1998, vice the discharge of 24 April 1998 now of record. However, if Petitioner was in fact discharged on 5 October 1999, it appears that he was not in a drilling status at that time and retirement on 1 October 1999 would be appropriate.

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 status in the Retired Reserve.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he extended his reenlistment of 25 April 1996 for a period of one month and that he then transferred to the Retired Reserve on 1 May 1998 in the grade of MSGT. However, if documentation exists to show additional service after 25 April 1998, he should be

transferred to the Retired Reserve on the first day of the month in which his enlistment expired vice being discharged on 24 April 1998 or any other date.

b. That this Report of Proceedings be filed in Petitioner's naval record.

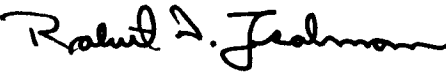
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.



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.

  
For W. DEAN PFEIFFER  
Executive Director