



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

TRG

Docket No: 8512-01
9 January 2002

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 Marine Corps Reserve filed an application with this Board requesting that his record be corrected to show that three anniversary years are qualifying for reserve retirement.

2. The Board, consisting of Mr. Rothlein, Mr. Kastner and Mr. Pfeiffer, reviewed Petitioner's allegations of error and injustice on 3 January 2002 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 Petitioner's application 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 enlisted in the Marine Corps Reserve for six years on 5 May 1977. In the first anniversary year, he was credited with 129 retirement points and it is a qualifying year for retirement. The record shows that in the next three anniversary years he has been credited with 37, 24 and 30 retirement points. Since he did not earn 50 in any of those years they are not qualifying for retirement. He transferred to the Individual Ready Reserve (IRR) on 4 May 1981 and was awarded an Organized Reserve Medal for the period 5 May 1977 to 4 May

1981. Subsequently, he was issued an honorable discharge.

d. Subsequently, Petitioner became a member of the National Guard and has accumulated about 17 years of qualifying service for reserve retirement. If the three years in which he has not been credited with 50 points are corrected, he now would be eligible for reserve retirement. A review of the record reveals that Headquarters Marine Corps (HQMC) has conducted a search to verify additional points without success. A route slip from the Personnel Management Support Branch (MMSB), HQMC, dated 12 October 2001, states that the available documentation indicates that Petitioner was an active member, and that a unit diary search revealed that no drills were reported for Petitioner or any other member of his reserve unit. MMSB states that the record "clearly omits his drill points, "and recommends that satisfactory years of drill" be awarded for the anniversary years 1978-81. Subsequently, HQMC informed Petitioner that since there is no documentation, the points could not be credited. However, Petitioner was advised to petition this Board and request the minimum number of points to make the three years qualifying for reserve retirement.

e. A review of the record reveals that during his service, Petitioner performed active duty for training every year, was promoted to CPL (E-4), and was assigned no proficiency or conduct marks below 4.0. In addition, he was awarded the Organized Reserve Medal, which indicates that he was in good standing during the period 5 May 1977 to 4 May 1981.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Since Petitioner was promoted, received good conduct and proficiency marks, and was awarded the Organized Reserve Medal, it appears that Petitioner probably attended drills during the period at issue. In addition, HQMC would have awarded the points if there was any documentation to support the fact that he actually attended drills. Accordingly, the Board concludes that Petitioner's record should be corrected to show that he earned the minimum number of nonpay retirement points to make the three anniversary years beginning on 5 May 1978 and ending on 4 May 1981 qualifying for reserve retirement. Nonpay points are appropriate because he would have already been paid for any drills performed during the period at issue. Therefore, Petitioner should be credited with 13 nonpay retirement points in the anniversary ending 4 May 1979, 26 points in the anniversary year ending 4 May 1980 and 20 points in the anniversary year ending 4 May 1981.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand the reason for the change in his retirement point record.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by crediting him with 13, 26 and 20 nonpay retirement points, respectively, in the anniversary years beginning on 5 May 1978 and ending on 4 May 1981.

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

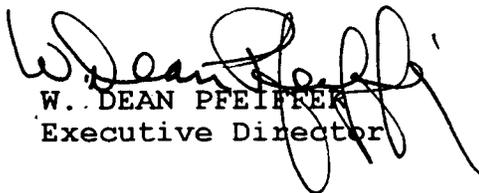
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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