



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

TRG
Docket No: 6500-02
6 November 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) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member in the Marine Corps Reserve, filed an application with this Board requesting, in effect, that his record be corrected to show that he was credited with three years of reserve service not shown on his statement of service, that he transferred to the Retired Reserve vice being discharged on 9 August 1990, and transferred to the Retired List on his 60th birthday.

2. The Board, consisting of Mr. Brezna, Mr. Kastner and Mr. McPartlin, reviewed Petitioner's allegations of error and injustice on 5 November 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 was issued a Notification of Eligibility for Retired Pay at Age 60 on 18 September 1984. Subsequently, in 1985, he was promoted to Sergeant Major (SGTMAJ; (E-9)). On 10 August 1987 he reenlisted for three years. The Career Retirement Credit Report (CRCR) shows that at the end of his anniversary year on 28 August 1989, he was credited with 29 continuous qualifying years for reserve retirement. In the next anniversary

year, he has only been credited with membership points. He was honorably discharged on 9 August 1990 at the expiration of his enlistment. Petitioner became 60 years old on 19 June 1998, however, he has not requested transfer to the Retired List and the start of his retired pay.

d. Petitioner is requesting that his retirement point record be corrected to show points earned in his last enlistment. He has submitted a copy of a statement of service for reserve retirement that only shows service until 28 August 1986 and 26 years of qualifying service. However, as indicated, the current CRCR shows service until 9 August 1990 and 29 years of qualifying service. He also claims that in the partial anniversary year beginning on 29 August 1989 and ending on 9 August 1990 he attended drills and a period of annual training (AT). He has submitted copies of orders showing AT from 14 to 29 July 1990 and the fitness report covering the period shows that he was attending drills. He has also submitted a letter from a former commanding officer stating that he attended drills at least through January 1990.

e. The Board did not request an advisory opinion in this case. However, the Board is aware that Headquarters Marine Corps (HQMC) has routinely recommended corrective action is similar cases when an individual is eligible for reserve retirement and errors occurred which resulted in discharge and not retirement.

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 Sergeant Major. Given the requirements of the Uniform Retirement Date Act, Petitioner should be transferred to the Retired Reserve effective 1 September 1990, vice the discharge of 9 August 1990 now of record. Since Petitioner was 60 years old on 19 June 1998 he should be transferred to the Retired List effective that date.

The Board declines to correct the last anniversary year to show additional retirement points, since the AT and drills attended may be administratively credited based on available documentation. He can reapply on this issue if he is dissatisfied with the administrative action taken by HQMC.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that that he transferred to the Retired Reserve effective on 1 August 1990 in the grade of SGTMAJ, vice being discharged on 9 August 1990.

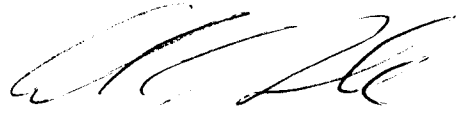
b. That Petitioner's naval record be further corrected to show that he transferred to the Retired List on 19 June 1998 his 60th birthday.

c. That no action be taken at this time on Petitioner's request for retirement points in the last anniversary year.

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

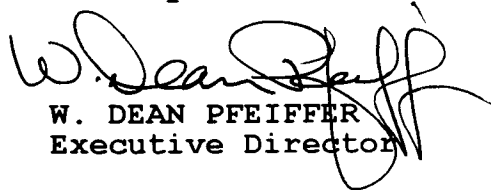
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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