



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

REC

Docket No: 01682-10

13 May 2010

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL OF RECORD [REDACTED]

Ref: (a) 10 U.S.C. 1552  
(b) MARADMIN message 303/08

Encl: (1) DD Form 149 with attachments  
(2) Case summary  
(3) HQMC MMSR-5 memo dtd 29 Mar 10  
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a commissioned officer of the United States Marine Corps Reserve, filed enclosure (1) with this Board requesting, in effect, that the last four of his six unsatisfactory reserve retirement anniversary years be removed and that he be placed on the Inactive Status List (ISL) effective 12 August 2005 in accordance with reference (b).

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED], and Ms. [REDACTED] reviewed Petitioner's allegations of error and injustice on 11 May 2010, 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 did exhaust all administrative remedies available under

existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Marine Corps Reserve on 12 August 1997. He was honorably discharged and was accepted for the Enlisted Commissioning Program on 16 August 1999. He received his commission and drilled with the Reserves until 11 August 2003. He did not participate again until 12 August 2009. Per reference (b), the screening of his service record should have occurred once he had not drilled for two years and should have been placed on the ISL. In his case, this should have occurred on 12 August 2005.

d. The Board requested an advisory opinion (enclosure (3)) in this case from Headquarters Marine Corps, which states that Petitioner should not receive relief based on the fact that if he had been placed on the ISL, he would not have earned any points toward his reserve retirement.

e. Due to the fact that the Petitioner was not placed on the ISL correctly, he now is in jeopardy of reaching his career service limitation and the possibility of not being selected for promotion to major. He is currently participating with a reserve unit and is enrolled in the Expeditionary Warfare School.

CONCLUSION:

Upon review and consideration of all the evidence of record, and despite the recommendation in enclosure (3), the Board concludes that Petitioner's request warrants favorable action. The Board notes his patriotism and dedication to his country and bases its recommendation on his loyalty, and desire to continue to serve his country. More particularly Petitioner is participating with a reserve unit and is attending the Expeditionary Warfare School course. Accordingly, the Board concludes that, as a matter of equity, relief in the form of placing him on the ISL effective 12 August 2005 is appropriate. However, he will be required to submit a minimal participation waiver for the years from 2006 to 2009.

In view of the foregoing, the Board finds the existence of an injustice warranting the following partial corrective action.

RECOMMENDATION:

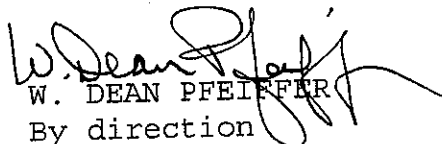
- a. That Petitioner's naval record be corrected to show that he be placed on the ISL effective 12 August 2005.
- b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.
- c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.
- d. That no further relief is granted.

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.

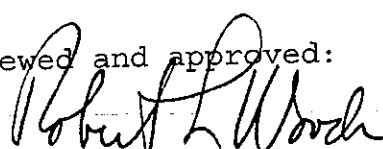
ROBERT D. ZSALMAN  
Recorder

  
BRIAN J. GEORGE  
Acting Recorder

5. The foregoing report of the Board is submitted for your review and action.

  
W. DEAN PFEIFFER  
By direction

Reviewed and approved:

  
ROBERT L. WOODS  
Assistant General Counsel  
(Manpower and Reserve Affairs)  
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Washington, DC 20350-1000

6/8/10