



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

█  
Docket No. 5859-24  
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF FORMER █  
█ XXX XX █ USMCR

Ref: (a) Title 10 U.S.C. § 1552  
(b) Petitioner's Naval Record

Encl: (1) DD Form 149 w/attachments  
(2) Advisory Opinion by HQMC Memorandum 1820 MMSR-5, 25 Jul 24

1. Pursuant to the provisions of the reference, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that he be placed into Retired Reserve status.

2. The Board, consisting of █ reviewed Petitioner's allegations of error and injustice on 3 October 2024 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, relevant portions of 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, found as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

b. A review of Petitioner's naval record, reference (b), reveals that Petitioner enlisted in the Marine Corps and commenced active duty on 7 April 1981. He completed a term of service, and on 6 April 1984, he was discharged with an honorable characterization of service and recommended for reenlistment. Thereafter, he affiliated with the Marine Corps Reserve. In his application, Petitioner states that he was involved in a serious motorcycle accident on 16 May 2000. Petitioner was unable to fulfill his duties in the Marine Corps Reserve, as described in his fitness report for the period 1 July 2000 through 30 June 2001, which reflects it was not observed because he was out for rehabilitation therapy due to the motorcycle accident. On 23 May 2002, Petitioner was discharged from the Marine Corps Reserve.

c. In his application, Petitioner requested to be placed into Retired Reserve status. In support of his request, he asserted that he served sufficient time in the Marine Corps and Marine Corps Reserve to have been placed into the Retired Reserve vice being discharged. He contends he served more than 15 years of service when was discharged, and that, if his medical records were

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provided to the Department of the Navy Bureau of Medicine and Surgery (BUMED), he would have been found not physically qualified (NPQ) for continued Reserve service, and he would have been given the option to enter the Retired Reserve.

d. In order to assist it in reviewing his petition, the Board obtained the enclosure (2) Advisory Opinion (AO) from Headquarters, U.S. Marine Corps (HQMC), Separation and Retirement Branch, which was considered favorable to Petitioner's request. According to the AO, Petitioner was in a motorcycle accident, and that, a "review of [Petitioner's] record indicated that his information was not forwarded to the Bureau of Medicine and Surgery (BUMED) for a review to see if he would be found fit for continued service in the reserves." The AO continued that, inasmuch as Petitioner was discharged from the Marine Corps Reserve on 23 May 2002 after completing 18 satisfactory years of service, pursuant to "reference (c) [Title 10 U.S.C. § 12731a], members of the Reserves, who are found unfit, can be retired with as early as 15 satisfactory years of service."

The AO concluded, "this headquarters believes that if BUMED would have received the information pertaining to [Petitioner], they would have determined that he is unfit for further service in the reserves. This Headquarters recommends removing [Petitioner's] discharge and approving his transfer to the retired list awaiting pay at age 60 with an effective date of 30 April 2002."

## CONCLUSION

Upon review and consideration of the evidence of record, the Board concluded that there was an error in Petitioner's naval record that warrants relief. Specifically, the Board concurred with the findings of the AO, which it found set forth a logical framework of analysis based on an objective review of substantial evidence. Accordingly, the Board determined that relief in the form of removing discharge and approving his transfer to the retired list awaiting pay at age 60 with an effective date of 30 April 2002, as set forth in the recommendation below.

## RECOMMENDATION

In view of the above, the Board recommends the following corrective action:

That Petitioner's discharge from the Marine Corps Reserve be corrected to reflect that he was transferred to the Retired Reserve list, awaiting pay at age 60, with an effective date of transfer to the retired reserve list of 30 April 2002. Note: HQMC will issue appropriate documentation incident to a member of the Marine Corps Reserve who achieve a Reserve retirement.

The Defense Finance and Accounting Service shall audit the Petitioner's pay account to determine amounts due, if any.

That a copy of this letter be placed 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.

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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 Regulation, 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.

11/4/2024

