



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

TRG
Docket No: 2938-99
9 September 1999

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 United States Marine Corps Reserve filed enclosure (1) with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 9 March 1991.

2. The Board, consisting of Mr. Ivins, Mr. Pfeiffer and Mr. Rothlein, reviewed Petitioner's allegations of error and injustice on 9 September 1999 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 enclosure (1) 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 promoted to MGYSGT (E-9) on 1 December 1983. He reenlisted in the Marine Corps Reserve on 11 December 1987 for three years. The record shows that he completed 28 years of qualifying service for reserve retirement on 30 August 1988, and about three months later he transferred to the Individual Ready Reserve (IRR). On 11 December 1990 he extended his enlistment for three months so that he could submit a retirement request. The record shows that he was honorably discharged on 9 March 1991. He became 60 years old on 7 August 1999.

d. Petitioner states that he submitted two requests for retirement which were not processed for unknown reasons. He further states that his enlistment was involuntarily extended due to Operation Dessert Storm, however, there is no documentation in the record to show service past 9 March 1991.

e. The Board did not request an advisory opinion in this case. However, the Board is aware that Headquarters Marine Corps has routinely recommended corrective action in similar cases where an individual was in good standing in the Marine Corps Reserve and there is no explanation in the record why they were discharged and not retired.

f. The Board is also 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 at the time of his discharge and would have been retired if his retirement request had been processed. Given the circumstances, the Board concludes that Petitioner should be transferred to the Retired Reserve in the grade of MGYSGT, vice being discharged on 9 March 1991. Given the requirement of the Uniform Retirement Date Act the Board further concludes that Petitioner should be transferred to the Retired Reserve on 1 March 1991 or any subsequent first of the month if evidence exists that his enlistment was actually extended. In addition, he should be transferred to the Retired List on his 60th birthday, 7 August 1999.

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 transferred to the Retired Reserve on 1 March 1991 in the grade of MGYSGT, or any subsequent first of the month if he was extended, vice being discharged on 9 March 1991. The record should be further corrected to show that he transferred to the Retired List on 7 August 1999.

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

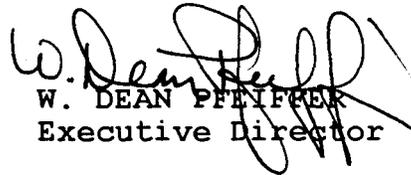
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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