



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 3321-99

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) HQMC Memos MMSR-6 of 26 Jul 99 & MMPR-2 of 24 Aug 99
(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 was promoted to MSGT (E-8) and transferred to the Retired Reserve vice being discharged on 28 June 1978.

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 reenlisted in the Marine Corps Reserve on 16 June 1973 for four years in the grade of GYSGT. He subsequently extended that enlistment on several occasions. All of the extensions show that he reenlisted on 28 June 1973. The record shows that he was honorably discharged on 28 June 1978 at the expiration of enlistment as extended. On 31 August 1978 he was issued a Notification of Eligibility for Retired Pay at Age 60. He became 60 years old on 25 July 1999.

d. At enclosure (2) are advisory opinions from Headquarters Marine Corps. One of the advisory opinions recommends that he be transferred to the Retired Reserve. The other opinion confirmed that Petitioner was promoted to MSGT (E-8) on 1 May 1978 and provided a copy of the promotion certificate.

e. 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. The Board was also aware that in 1978 an individual had only to be promoted to ~~be~~ retired in the higher grade and there were no in grade length of service requirements.

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 he had requested it. Therefore, the Board agrees with the recommendation contained in the advisory opinion and concludes that Petitioner should be transferred to the Retired Reserve vice being discharged on 28 June 1978. Given the requirement of the Uniform Retirement Date Act and since Petitioner may have drilled in June 1978, the Board further concludes that the record should be corrected to show that Petitioner's enlistment was extended for a period of one month and he was then transferred to the Retired Reserve on 1 July 1978. Since he was promoted on 1 May 1978 the transfer should be in the grade of MSGT. In addition, he should be transferred to the Retired List on his 60th birthday, 25 July 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:

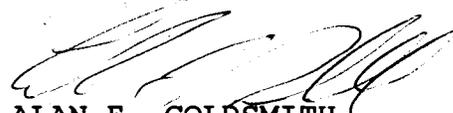
a. That Petitioner's naval record be corrected to show that he extended his enlistment for one month and transferred to the Retired Reserve on 1 July 1978 in the grade of MSGT vice being discharged on 28 June 1978. The record should be further corrected to show that he transferred to the Retired List on 25 July 1999, his 60th birthday.

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

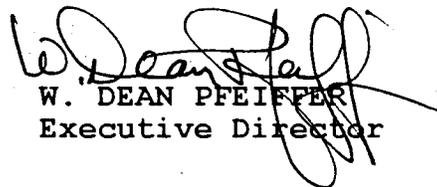
review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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