



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

TRG
Docket No: 7190-98
18 August 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 Memo MMSR-6 of 19 Jul 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 transferred to the Retired Reserve vice being discharged on 1 August 1991.

2. The Board, consisting of Mr. Pfeiffer, Mr. Tew and Ms. Moidel, reviewed Petitioner's allegations of error and injustice on 17 August 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 4 February 1987 for four years and subsequently extended that enlistment for four months. On 1 December 1988 he was promoted to MSGT (E-8). His retirement point record shows that at the end of the anniversary year on 4 January 1991, he was credited with 20 consecutive qualifying years for retirement. During his last anniversary year he transferred to the Individual Ready Reserve (IRR). There are no discharge entries in the record, however, his enlistment as extended would have expired on 3 August 1991. On 12 August 1991 he was issued a Notification of Eligibility for Retired Pay at Age 60.

d. At enclosure (2) is an advisory opinion from Headquarters Marine Corps which records that Petitioner be transferred to the Retired Reserve effective 1 August 1991.

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 date 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 agrees with the recommendation contained in the advisory opinion and concludes that Petitioner should be transferred to the Retired Reserve on 1 August 1991 in the grade of MSGT vice being discharged on 3 August 1991 or any other date.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand Petitioner 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 August 1991 in the grade of MSGT, vice being discharged.

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