



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

TRG  
Docket No: 3181-01  
14 June 2001

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

Subj: REVIEW OF NAVAL RECORD OF E [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) Case Summary  
(2) 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 an application with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 8 January 1984.

2. The Board, consisting of Mr. Shy, Mr. Morgan and Mr. Mazza, reviewed Petitioner's allegations of error and injustice on 30 May 2001 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 Petitioner's application 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 honorably discharged from the Regular Marine Corps on 28 November 1974. At that time, he had completed 16 years, 2 months and 29 days of active service. He reenlisted in the Marine Corps Reserve the next day and served in the Marine Corps Reserve until 8 January 1984. During this period of service he earned over seven qualifying years for reserve retirement and was promoted to MSGT (E-8). His reserve service included a period of extended active duty totaling about 15 months. As indicated, he was honorably discharged on 8 January

1984. Petitioner became 60 years old on 19 July 2000.

d. After his discharge from the Regular Marine Corps on 28 November 1974 and during the remainder of his anniversary year, which ended on 1 July 1975, he earned 32 drill points and has been credited with nine membership points. The examiner has been informed that this seven month period of service in the USMCR can be used in determining whether or not the last eight years of qualifying service are in the reserve component. The record also shows that in the next eight years after 1 July 1975, he earned seven qualifying years for reserve retirement. In addition he has been credited with 6 months and 6 days of qualifying service for the partial anniversary years from 2 July 1983 until his discharge on 8 January 1984. The total qualifying service for reserve retirement is 23 years, 9 months and six days.

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 when an individual is qualified for reserve retirement and there is no explanation in the record why that individual was discharged and not retired.

f. 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.

#### 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 if the entire period from 29 November 1974 until 8 January 1984 is considered, Petitioner's last eight years of qualifying service are in the reserve component, and he is eligible for reserve retirement. Since Petitioner was in good standing in the Marine Corps Reserve and would have been retired if he had requested it, the Board concludes that the record should be corrected to show that he transferred to the Retired Reserve in the grade of MSGT.

Since he may have drilled in January 1984 and given the requirements of the Uniform Retirement Date Act, the Board concludes that his enlistment should be extended for the minimum period of one month and he should be transferred to the Retired Reserve on 1 February 1984 vice being discharged on 8 January 1984. Since Petitioner is now 60 years old, the record should be corrected to show that he transferred to the Retired List on 19 July 2000, his 60th birthday.

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's status on the Retired List.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he extended his enlistment for a period of one month and transferred to the Retired Reserve on 1 February 1984 in the grade of MSGT vice being discharged on 8 January 1984.

b. That Petitioner's naval record be further corrected to show that he transferred to the Retired List on 19 July 2000 his 60th birthday.

c. 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