



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

TRG

Docket No: 5848-01  
12 December 2001

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) Case Summary  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Marine Corps Reserve filed an application with this Board requesting that his record be corrected to show that the anniversary year ending 12 January 1993 is qualifying for reserve retirement.

2. The Board, consisting of Mr. Beckett, Mr. Cooper and Ms. Humberd, reviewed Petitioner's allegations of error and injustice on 11 December 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 Marine Corps on 14 January 1991 after completing over 10 years of active duty. A year later, on 13 January 1992 he enlisted in the Marine Corps Reserve. At the end of his first anniversary year on 12 January 1993, he was credited with 41 retirement points, mine points less than the 50 required for a qualifying year for retirement. Subsequently, he has earned eight consecutive qualifying years for retirement, and the anniversary year which will end on 12 January 2002 will also be qualifying for reserve retirement.

d. Petitioner states in his application that he was never briefed on the requirement that he had to earn 50 retirement points in order to earn a qualifying year. He is requesting that nine retirement points be moved from the anniversary year ending 12 January 1994 into the anniversary years ending 12 January 1993.

e. Attached to enclosure (1) is an advisory opinion from Headquarters Marine Corps (HQMC) which states that Petitioner probably was not properly advised, and recommends that sufficient retirement points be moved into the anniversary year ending 12 January 1993 to make that year qualifying for reserve retirement.

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 on 12 January 2002, Petitioner will complete nine consecutive qualifying years for reserve retirement. This indicates to the Board that if he had been aware of the 50 point requirement in his first year as a reservist, he would have earned a qualifying year. Therefore, the Board agrees with the recommendation contained in the advisory opinion that the record should be corrected to show that the anniversary year ending 12 January 1993 is qualifying for reserve retirement.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand that the anniversary year ending 12 January 1993 is qualifying for reserve retirement.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by moving nine retirement points from the anniversary year ending 12 January 1994 into the anniversary year ending 12 January 1993.

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.



For W. DEAN PFEIFFER  
Executive Director