



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

BJG
Docket No: 6069-01
19 October 2001

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

Subj: MAJ [REDACTED], USMCR, [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 31 Jul 01 w/attachments
(2) Subject's ltr dtd 12 Sep 01
(3) HQMC MMSR-6 memo dtd 20 Aug 01 w/encl
(HQMC MMSR-5 memo dtd 23 May 01)
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by transferring 15 reserve retirement points from his anniversary year ending 1990 (62 inactive duty points (60 credited) and 15 active duty points, 75 total points credited) to his anniversary year ending 1989 (35 total points credited), and six reserve retirement points from his anniversary year ending 1994 (63 inactive duty points (60 credited) and 17 active duty points, 77 total points credited) to his anniversary year ending 1995 (44 total points credited), so that his anniversary years ending 1989 and 1995 will have the minimum 50 points needed to be counted as satisfactory years for purposes of eligibility for reserve retired pay. Originally, he also requested relief regarding his anniversary years ending 1996 and 1997, but his letter at enclosure (2) amended his application to withdraw these requests. He also requested that his anniversary month be changed from August to September.

2. The Board, consisting of Messrs. Leeman, McCulloch, and Swarens, reviewed Petitioner's allegations of error and injustice on 17 October 2001, and pursuant to its regulations, determined that the limited 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. In correspondence attached as enclosure (3), the HQMC office having cognizance over the subject matter of Petitioner's request recommended granting relief regarding his 1989 anniversary year only. This was his first year after leaving active duty. They felt his satisfactory years the next five years indicated he was aware of the retirement point system. They further commented to the effect that his anniversary year had been correctly established.

c. In his letter at enclosure (2), Petitioner insisted that relief is warranted regarding his 1995 anniversary year, because he would not have had a six-point shortfall if he had understood the point system.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (3), the Board finds the existence of an injustice warranting partial relief, specifically, transfer of 15 inactive duty points from Petitioner's 1990 anniversary year to his 1989 anniversary year.

The Board further agrees with the advisory opinion in finding that no further relief is warranted. Regarding Petitioner's anniversary year ending 1995, they find that by that time, he should have made himself aware of how the system worked.

In view of the above, the Board directs the following limited corrective action.

RECOMMENDATION:

a. That Petitioner's record be corrected by transferring 15 inactive duty points from his anniversary year ending 16 September 1990 to his anniversary year ending 16 September 1989, giving him a satisfactory year, 50 points, for that anniversary year.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

d. That the remainder of Petitioner's request be denied.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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

Jonathan S. Ruskin
JONATHAN S. RUSKIN
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
W. DEAN PFEIFFER
Executive Director

0069-01



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1741
MMSR-6
20 Aug 01

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]
[REDACTED] USMCR

Ref: (a) MMR Route Sheet of 8Aug01, Docket No. 6069-01

Encl: (1) MMSR-5J Comment 1900 of 23May01

1. The reference requests an advisory opinion on [REDACTED] petition to redistribute excess Reserve Retirement Credit points and change his anniversary date in the Marine Corps Reserve.
2. As stated in the enclosure [REDACTED]'s record should be corrected to show a qualifying year ending on 16 September 1989. No further correction of his record is warranted.
3. Point of contact is Master Gunnery Sergeant [REDACTED] Mr [REDACTED]

[REDACTED]

Head, Separation and
Retirement Branch
By direction of the Commandant
of the Marine Corps

1800
MMSR-5
23 May 01

MMSR-5 Comment on MMER Route Sheet of 5 Jan 2001

Subj: REQUEST FOR BCNR ADVISORY OPINION IN THE CASE OF MAJOR
[REDACTED] USMCR

Ref: (a) BCNR Memo of 6 Aug 01

1. As requested in reference (a), we have reviewed Major [REDACTED] request to redistribute excess Reserve Retirement Credit points from anniversary years with more than 50 points to his anniversary years ending 16 September 1989, 1995, 1996 and 25 April 1997 in order to make them qualifying for retirement purposes. Additionally, he requests to reestablish his anniversary date to 17 September.

2. [REDACTED]'s 26 August anniversary date is correct. [REDACTED]'s anniversary date was required to be reestablished when he was reinstated to the Active Status List. [REDACTED] was placed on the Inactive Status List (ISL) of the Standby Reserve on 26 April 1997 due to inactivity. References (b) and (c) requires members to earn a minimum of 27 points in order to remain in an active status. While on the ISL a member is not entitled to perform any type of duty, receive retirement credit or compete for promotion.

3. [REDACTED] claims he was not informed of the 50 point requirement to earn a qualifying retirement year which possibly accounts for him not earning 50 points for his anniversary year ending 16 September 1989. ^(B) next five years clearly indicates he was aware of the point system. He also claims the lack of billets and personal reasons that prevented him for obtaining qualifying years in 1995, 1996 and 1997. There is no record of [REDACTED] applying for appropriate or associate duty orders nor did he try to earn retirement credits through correspondence courses. ^(B) Having earned at least 50 points over the ^{each of} [REDACTED]

4. We recommend [REDACTED] be granted relief for his anniversary year ending 16 September 1989.

[REDACTED]
By direction