



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

TRG
Docket No: 9067-02
18 December 2002

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, a former enlisted member of the Marine Corps, filed an application with this Board requesting that his record be corrected to show that he completed four years of active duty.

2. The Board, consisting of Mr. Lippolis, Mr. Rothlein and Mr. Caron, reviewed Petitioner's allegations of error and injustice on 10 December 2002 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. Petitioner's application was filed in a timely manner.

c. Petitioner enlisted in the Marine Corps on 2 August 1961 for four years. He was released from active duty on 30 July 1965, which was a Friday. At that time, he had completed 3 years, 11 months and 29 days of active duty (using 30 day months). However, the net service completed block on his DD Form 214, incorrectly shows four years of active duty. He had 60 days of accrued leave as of the date of discharge.

d. Petitioner enlisted in the Coast Guard Reserve on 3 August 1987 at age 44. Since then, he has completed 15 consecutive qualifying years for reserve retirement and, at the end of his anniversary year on 2 August 2002, he was credited with 18 years, 11 months and 29 days of qualifying service. He became 60 years of age on 9 August 2002.

e. Petitioner states that the Coast Guard is denying him retirement authorization on his 61st birthday because at that time, he will only have completed 19 years, 11 months & 29 days of service. He has been informed that he will need to serve another full year in the Coast Guard Reserve to earn retirement.

f. Regulations allow for early separation in those cases in which the expiration of enlistment occurs on a holiday or weekend.

MAJORITY CONCLUSION:

Upon review and consideration of all the evidence of record, the majority of the Board, consisting of Mr. Rothlein and Mr. Lippolis, concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner was properly separated on Friday, 30 July 1965. However, the Board also notes that Petitioner sold back 60 days of leave and could have been placed on leave for 31 July and 1 August. Since Petitioner is now 60 years of age, and may be forced to serve an additional two years because of his early release, the Board believes that the record should be corrected to show that he was on leave on 31 July and 1 August 1965. With this correction, his record will show exactly four years of active duty.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand the reason for the change in his date of separation.

MAJORITY RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was not released from active duty on 30 July 1965 but was on leave the next two days, 31 July and 1 August 1965, and was released from active duty on the latter date.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

MINORITY CONCLUSION:

Mr. Caron disagrees with the majority noting that Petitioner was properly released from active duty on 30 July 1965. He also notes that, in actuality, Petitioner's problem is not with the marine Corps but the Coast Guard since that service enlisted him at age 44. Since the date of release from active duty is not in error, he concludes that Petitioner's request does not warrant favorable action.

MINORITY RECOMMENDATION:

That Petitioner's request be denied.

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. The foregoing report of the Board is submitted for your review and action.



W. DEAN PFEIFFER

MAJORITY REPORT: JAN 8 2003
Reviewed and approved:



MINORITY REPORT:
Reviewed and approved:

JOSEPH LYNCH
Assistant General Counsel
(Manpower and Reserve Affairs)