



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

TRG
Docket No: 9968-02
29 January 2003

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 commissioned officer in the Marine Corps Reserve, filed an application with this Board requesting that his record be corrected to show two additional qualifying years so that he can continue to be a member of the Marine Corps Reserve.

2. The Board, consisting of Mr. Dunne, Mr. Grover and Mr. Nicholson, reviewed Petitioner's allegations of error and injustice on 22 January 2003 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 completed 20 years of qualifying service for reserve retirement at the end of his anniversary year on 21 April 1995. During the seven year period from 22 April 1995 through 21 April 2002, he earned another five qualifying years. In the anniversary year ending 21 April 2000 he has been credited with 45 retirement points and in the anniversary year ending 21 April 2002 he has been credited with 40 retirement points. So far, he has only been credited with membership points in the eighth anniversary year which will end on 21 April 2003.

d. Marine Corps regulations state that after a reservist qualifies for reserve retirement, the individual must retire if an individual has two nonqualifying years.

e. Petitioner states that he was in the Individual Ready Reserve (IRR) during the 1999/2000 anniversary year. He affiliated with a unit in February 2000 but was only able to earn 45 of the required 50 retirement point for a qualifying year in the time remaining until the end of the anniversary year on 21 April 2000. Concerning the 2001/2002 anniversary year, he states that although he is a lawyer, he accepted an opportunity to become a police officer and subsequently graduated from the South Carolina Criminal Justice Academy with honors. He further states that because of the requirements to learn his new job and to wind down his legal practice, he was only able to earn 40 retirement points. He is requesting that sufficient retirement points be transferred into the two nonqualifying years to make them qualifying so he can continue to be a member of the Marine Corps Reserve.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes his many years of excellent service, unique qualifications, desire for further service and the circumstances that led to the two nonqualifying years at issue. Therefore, the Board concludes that sufficient retirement points should be transferred from the excess over 50 in qualifying years to make the anniversary years ending on 21 April 2000 and 21 April 2002 qualifying for reserve retirement. With this correction Petitioner will be able to continue in the Marine Corps Reserve. It appears that the anniversary year, which will end on 21 April 2003, will not be qualifying. Therefore, any future nonqualifying year will result in his 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 the reason for the change in the number of qualifying years.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by transferring sufficient retirement points from the excess over 50 in qualifying years to make the anniversary years ending 21 April 2002 and 21 April 2002 qualifying for reserve retirement.

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

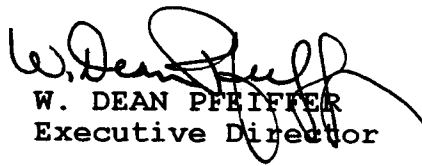
complete record of the Board's proceedings in the above entitled matter.

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