



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

TRG
Docket No: 10670-02
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 commissioned officer in the Marine Corps Reserve, filed an application with this Board requesting that his record be corrected to show that he was continued in the Marine Corps Reserve to complete 24 years of commissioned service.

2. The Board, consisting of Mr. Zsalman, Mr. Pfeiffer and Mr. Adams, reviewed Petitioner's allegations of error and injustice on 18 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 entered the Marine Corps Reserve on 9 August 1979 and accepted a commission on 21 August 1979. The record shows that at the end of his anniversary year on 8 August 1995 he was credited with 16 years of continuous qualifying service for reserve retirement, about 12 years of which were on active duty. During this 16 year period, on 1 February 1992, he was promoted to major (MAJ; O-4). However, during the four years from 1993 to 1999, he was only credited with two qualifying years.

d. Since Petitioner had failed of selection to lieutenant colonel on two occasions and had 18 years of qualifying service, in 1999 he was placed in the "Safety Zone", which gave him three

years to obtain the two qualifying years needed to be eligible for reserve retirement. However, he failed to earn qualifying years in the next two anniversary years.

e. Petitioner was recalled to active duty in late 2001 or early 2002 and remains in that status today. Therefore, at the end of his anniversary year on 8 August 2002, he was credited with 19 years of qualifying service. He has sufficient active duty in the next anniversary year to make that year qualifying. However, he cannot remain in the Marine Corps Reserve because he cannot earn 20 years of qualifying service prior to the end of the safety zone period. His discharge is required on 31 December 2002, unless he is selected for continuation in the Marine Corps Reserve.

f. Attached to enclosure (1) is an advisory opinion from Headquarters Marine Corps (HQMC) recommending that the Board correct the record to show that Petitioner was continued to complete 24 years of commissioned service. Petitioner cannot be selected for continuation by HQMC because such action cannot be accomplished prior to 31 December 2002. The enclosures to the advisory opinion state that the United States Central Command (USCENTCOM) supports Petitioner's request because an equally qualified officer is not available.

CONCLUSION:

Since Petitioner is performing essential duties in the Horn of Africa Region in support of USCENTCOM, the Board agrees with the recommendation contained in the advisory opinion. Therefore, Petitioner's record should be corrected to show that he was selected for continuation to complete 24 years of commissioned service.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Marine Corps Reserve.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was selected for continuation in the Marine Corps Reserve to complete 24 years of commissioned service.

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