



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

Docket No: 12316-08  
13 February 2009

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 member of the Marine Corps Reserve, filed an application with this Board requesting, in effect, that her record be corrected to show that she transferred to the Retired Reserve vice being discharged on 2 March 2007.

2. The Board, consisting of Mr. [REDACTED] Mr. [REDACTED] and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 10 February 2009 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. On 15 November 2005 Petitioner was issued a Notification of Eligibility for Retired Pay at age 60. On 1 September 2006 she was promoted to master sergeant (MSgt; paygrade E-8). On 15 November 2006 she transferred to the Individual Ready Reserve and remained in that status until she was honorably discharged on 2 March 2007 at the expiration of her enlistment. She was born in 1965 and will not be age 60 until 2025.

d. The Board did not request an advisory opinion in this case. However, the Board is aware that Headquarters Marine Corps has routinely recommended corrective action when an individual is qualified for reserve retirement and his or her enlistment expired without a request to transfer to the Retired Reserve.

e. The Uniform Retirement Date Act, 5 U.S.C. 8301, requires that the effective date of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. She was in good standing in the Marine Corps Reserve and would have been retired if she had requested it in sufficient time prior to the expiration of her enlistment. Therefore, given the requirements of the Uniform Retirement Date Act, the retirement should be effective on 1 March 2007 vice the discharge of 2 March 2007 now of record.

Concerning the issue of Petitioner's grade on retirement it appears that she should be retired in the grade of gunnery sergeant (GySgt; paygrade E-7) since she did not complete the required two qualifying years after being promoted. However, the decision as to the grade on retirement may be determined by Headquarters Marine Corps.

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

RECOMMENDATION:

a. That Petitioner's record be corrected to show that she transferred to the Retired Reserve effective on 1 March 2007 in the grade of GySgt, or higher grade if warranted, vice the discharge of 2 March 2007 now of record.

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

  
BRIAN J. GEORGE  
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