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

TAL
Docket No: 9533-09
16 July 2010

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

Subj: REVIEW OF NAVAL RECORD OF ████████████████████████
██████████

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

Encl: (1) DD Form 149 with attachments
      (2) Case Summary
      (3) HQMC MMSR-5 memo dtd 29 Apr 10
      (4) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a
former enlisted member of the Marine Corps Reserve, filed
enclosure (1) with this Board requesting, in effect, that his
record be corrected to show that he transferred to the Marine
Corps Retired Reserve vice being discharged on 13 November 1990.

2. The Board, consisting of Mr. ████████, Mr. ████████ and Ms.
████████ reviewed Petitioner's allegations of error and injustice
on 8 July 2010 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. Although enclosure (1) was not filed in a timely manner,
it is in the interest of justice to waive the statute of
limitations and review the application on its merits.

   c. Petitioner enlisted in the Marine Corps and was honorably
released from active duty and transferred to the Marine Corps
Reserve where he served until he was discharged on 13 November
1990.

d. With his application, Petitioner forwarded a copy of his statement of service showing 20 years of qualifying service along with his verification letter from the Commandant of the Marine Corps (CMC) dated 9 March 1992, stating he had enough time to receive retired pay at age 60.

e. Enclosure (3) is an advisory opinion from the Headquarters Marine Corps office which has cognizance over Petitioner's request. It states that his request has merit and warrants favorable action.

f. 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 following the date of separation.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosure (3), the Board concludes that Petitioner's request warrants relief. He was in good standing in the Marine Corps Reserve and was credited with 20 years of qualifying service. Therefore, the Board concludes that his record should show that he transferred to the Marine Corps Retired Reserve on 1 December 1990.
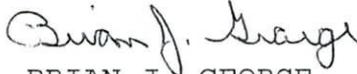
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Marine Corps Retired Reserve effective 1 December 1990, in the rank of sergeant major (SgtMaj/E-9), vice being discharged on 13 November 1990, now of record.
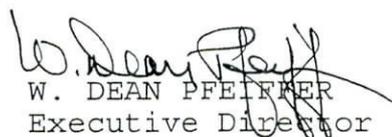
b. That this Report of Proceedings be filed in his naval record.

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

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 Regulation, 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