



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 7339-98

21 July 1999

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) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps Reserve filed enclosure (1) with this Board requesting that his naval record be corrected to show that he transferred to the Retired Reserve vice being discharged on 5 July 1994

2. The Board, consisting of Mr. Pauling, Ms. Madison and Ms. Taylor, reviewed Petitioner's allegations of error and injustice on 20 July 1999 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. Enclosure (1) was filed in a timely manner.

c. Petitioner reenlisted in the Marine Corps Reserve for six years on 6 April 1988 in the grade of GYSGT (E-7). Subsequently, on 1 January 1992 he was promoted to MSGT (E-8). About 10 months later, on 6 October 1992, he was issued a Notification of Eligibility for Retired Pay at Age 60. In March 1993 he was directed to stop drilling because he was not physically qualified. He was then processed for a medical discharge. On 1 September 1994, the Physical Evaluation Board found him not physically qualified and directed discharge or retirement. There is only one three month extension of his enlistment in the record, and no discharge entries. However, a Career Retirement Credit Report (CRCR), dated 19 July 1999, shows that he was discharged on 13 October 1994, apparently as a result

of the PEB directive.

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 in similar cases where an individual was in good standing in the Marine Corps Reserve and there is no explanation in the record why the individual was discharged and not retired or administrative problems prevented retirement prior to discharge.

e. The Board notes that Petitioner was promoted to MSGT on 1 January 1992 and normally would be required to complete two qualifying years in order to retire at that grade. However, this requirement may be waived in appropriate cases. The Career Retired Credit Report (CRCR) shows that he completed 16 months of qualifying service at the time he was ordered to stop drilling because of his physical condition.

f. The Board is aware that 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. The Board notes that Petitioner was in good standing in the Marine Corps Reserve and would have been retired if he had requested it. Given the circumstances, the Board concludes that the record should be corrected to show that Petitioner's enlistment was extended and he was then transferred to the Retired Reserve vice being discharged on 13 October 1994. Given the requirements of the Uniform Retirement Date Act, the Board further concludes that Petitioner should be transferred to the Retired Reserve on 1 October 1994.

Concerning the issue of his grade on retirement, the Board notes that Petitioner completed 16 months of the 24 month requirement to be retired as a MSGT and could not continue to drill because of his physical condition. Given the circumstances, the Board concludes that the record should show that the 24 month requirement was waived and Petitioner was transferred to the Retired Reserve in the grade of MSGT.

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

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that his enlistment was extended and he transferred to the Retired Reserve in the grade of MSGT effective 1 October 1994 vice being discharged on 13 October 1994.

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

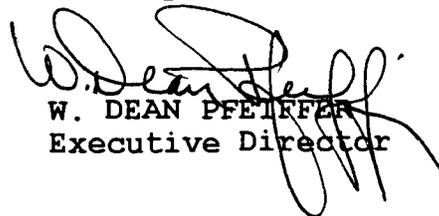
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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