



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

TRG
Docket No: 8589-01
7 October 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 retired enlisted member of the Marine Corps filed enclosure (1) with this Board requesting that his career retirement credit report (CRCR) be corrected to show his service during Desert Shield/Storm. He is also requesting, in effect, that this record be corrected to show that he is eligible for retired pay at age 60.

2. The Board, consisting of Mr. Brezna, Mr. Kastner and Mr. McPartlin, reviewed Petitioner's allegations of error and injustice on 5 November 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. Although it appears that Petitioner's application 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 reenlisted in the Marine Corps Reserve on 12 May 1988 for four years. Subsequently, in 1990, he was promoted to Gunnery Sergeant (GYSGT; E-7). He transferred to the Individual Ready Reserve (IRR) on 9 April 1990. He was subsequently called up in support of Operation Desert Shield/Storm and served on active duty from 19 January to 17 May 1991, and then returned to the IRR. With the crediting of this

service, he had 17 years of qualifying service for reserve retirement at the end of his anniversary year on 14 July 1991, and he earned no further qualifying years. A three month extension became effective on 12 May 1992 and he was transferred to the Retired Reserve in the grade of GYSGT on 1 August 1992. Given the foregoing it does not appear that he has earned the necessary two years of qualifying service required to require as a GYSGT.

d. Petitioner states in his application, in effect, that since he was in the IRR he had to reenlist through the mail and when he called the IRR recruiter, he was informed that his reenlistment package was lost. Since he was approaching the end of his extension, he was informed that his only options were to be discharged or to request retirement. He states that when he protested that he did not have enough qualifying years, he was informed that he was eligible to retire. Based on this advice, he requested retirement and was so retired effective 1 August 1992. He states that he has since learned that this honorary retirement does not entitle him to retired pay at age 60.

e. Headquarters Marine Corps (HQMC) has administratively corrected Petitioner's CRCR to show his active duty during Desert Shield/Storm and action by the Board on this issue is not necessary. The CRCR shows continuous service from 15 July 1969 until 14 July 1984. During this 15 year period, Petitioner earned 13 years of qualifying service. He reenlisted with broken service for one year on 12 May 1987 and served continuously until his retirement on 1 August 1992. However, the CRCR erroneously indicates that his anniversary year starts on 15 July 1987. The three months extension properly became effective on 12 May 1992. Therefore, this is a minor error that can be corrected administratively by HQMC. After his reenlistment on 12 May 1987 he earned an additional four qualifying years.

f. HQMC also states that if Petitioner desires to reenlist he should contact the prior service recruiter. However, there is no guarantee that he will be automatically accepted back into the Marine Corps because he must meet all the standards for reenlistment.

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 extended his enlistment for three months so that he would have sufficient time for a reenlistment package to be processed. The Board believes that Petitioner must have received bad advice because although he had 20 years of total service, he only had 17 years of qualifying

service. It certainly was an error to request retirement when a properly considered reenlistment request apparently would have been approved. Given the circumstances, the Board believes that an injustice has occurred and concludes that corrective action is warranted. However, the Board believes that HQMC's suggestion that Petitioner contact a prior service recruiter is not a viable alternative because Petitioner is now 55 years old and probably does not meet the requirements for reenlistment.

Therefore, the Board concludes that Petitioner's record should be corrected by transferring sufficient retirement points from the excess over 50 in qualifying years into the three anniversary years ending on 14 July 1983, 14 July 1984 and 11 May 1992, to make those years qualifying for reserve retirement. With this correction, Petitioner will have 20 qualifying years and will be eligible for retired pay at age 60. Since Petitioner is already retired no action to retire him is required.

Concerning the issue of Petitioner's grade on requirement, the Board notes that with the correction to the record to make the anniversary year ending 11 May 1992 qualifying, Petitioner will have two qualifying year in the grade of GYSGT and concludes that he is appropriately retired in that grade.

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 eligibility for retired pay at age 60.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by moving sufficient retirement points from the excess over 50 in qualifying years to make the anniversary years ending 14 July 1983, 14 July 1984 and 11 May 1992 qualifying for reserve retirement.

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

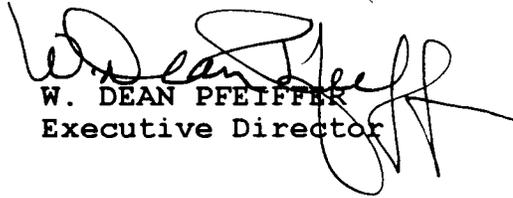
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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