



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

TRG
Docket No: 4647-01
27 June 2001

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
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, the widow of a deceased enlisted member of the United States Naval Reserve filed an application with this Board requesting that her late husband's record be corrected to show that he was eligible for retired pay at age 60 and made an election under the Reserve Component Survivor Benefit Plan (RCSBP).

2. The Board, consisting of Mr. Mazza, Mr. Harrison and Ms. Hare, reviewed Petitioner's allegations of error and injustice on 26 June 2001 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. Subject was released after five years of active duty on 23 May 1984. He remained in the Individual Ready Reserve until he was honorably discharged on 11 April 1985 at the end of his military obligation. He enlisted in the Naval Reserve on 8 March 1986 and then earned 14 consecutive qualifying years for reserve retirement, and at the end of his anniversary year on 7 March 2000, he was credited with 19 years of qualifying service. In the next anniversary year he earned 35 points for drills and has been credited with 11 membership points for a total of 46 retirement points. He died on 2 December 2000. Therefore, as of the date of his death, he was credited with 19 years, 8 months

and 25 days of qualifying service for reserve retirement.

d. The Board is aware that if Subject had qualified for reserve retirement he would have been given an opportunity to make an election under the RCSBP.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes Subject's five years of active duty and 14 plus consecutive qualifying years for reserve retirement. In addition he already had sufficient points in his last year to earn another qualifying year, if he had lived until the end of his anniversary year on 7 March 2001. Given the circumstances, the Board concludes that the record should be corrected to show entitlement for retired pay at age 60 and the RCSBP.

Therefore, the record should be corrected by moving sufficient retirement points from the excess over 50 in subsequent anniversary years to make the partial year from 24 May 1984 to 11 April 1985 qualifying for reserve retirement. With this correction Subject's record will show over 20 years of qualifying service. The record should be further corrected to show that he transferred to the retired Reserve on 1 December 2000, the day before his death.

Since Subject had been married for over 15 years and had three children, the Board concludes that he would have made an election under the provisions of the RCSBP designating his wife as beneficiary with an immediate annuity based on the full amount of his retired pay. Whether or not the children would have been included in the beneficiary determination cannot be determined by the Board and given the greater cost for this coverage, this decision should be left to Subject's widow.

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

RECOMMENDATION:

a. That Subject's naval record be corrected by transferring sufficient points from the excess over 50 points in subsequent anniversary years to make the partial anniversary year ending on 11 April 1985 qualifying for reserve retirement.

b. That Subject's naval record be further corrected to show that he transferred to the Retired Reserve on 1 December 2000 in the rate of SW1 with eligibility for retired pay at age 60.

c. That Subject's naval record be further corrected to show that on 1 December 2000 he made an election for an immediate annuity for spouse only under the provisions of the RCSBP based on the full amount of his retired pay. The widow can add the children as beneficiaries if she decides to do so after evaluating the cost of such coverage.

d. 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.


for W. DEAN PFEIFFER
Executive Director