



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

TRG  
Docket No: 6003-00  
20 March 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) 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 Naval Reserve filed enclosure (1) with this Board requesting that his record be corrected to show that he has 20 years of qualifying service for reserve retirement and that he transferred to the Retired Reserve vice being discharged on 13 June 1990.

2. The Board, consisting of Mr. Pfeiffer, Mr. Kastner and Mr. Dunn reviewed Petitioner's allegations of error and injustice on 6 March 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. Although it appears that 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 Naval Reserve on 29 June 1961 and earned two qualifying years for reserve retirement. The record shows that in the anniversary year ending 28 June 1964 he has been credited with 14 days active duty for training (ACDUTRA) and 15 membership points, for a total of 29 retirement points. The Record of Naval Reserve Service (Page 11) for this anniversary year does not contain any entries at all including the ACDUTRA and membership points.

d. On 6 October 1964 Petitioner reported for 24 months of active duty and subsequently extended his active service until 18 May 1967. On 19 May 1967 he enlisted in the Regular Navy and continued on active duty until he was honorably discharged on 18 June 1974.

e. Petitioner enlisted in the National Guard on 14 September 1980 and served in that component until 13 January 1984. The record shows that he earned three qualifying years for retirement. On 14 January 1984 he reenlisted in the Naval Reserve for six years and then earned four consecutive qualifying years. On 13 September 1987, at the end of his anniversary year, he was credited with 18 years, 11 months and 20 days of qualifying service for reserve retirement. On 16 November 1987 he transferred to the Individual Ready Reserve (IRR). He remained in the IRR until he was honorably discharged at the expiration of his enlistment on 13 January 1990.

f. Petitioner is not eligible for reserve retirement because he does not have 20 qualifying years for retirement. In addition, since he only has the last seven qualifying years in the reserve component, he does not meet the requirement that the last eight years of qualifying service be in the reserve component.

g. On 17 August 2000 Petitioner was issued a Statement of Service for Naval Reserve Retirement which indicated that he had completed 19 years, 11 months and 20 days of qualifying service. Since he is not qualified for reserve retirement, he applied to this Board on 5 September 2000, requesting that sufficient points be transferred into one of his years in the IRR to make that year qualifying. He believed, based on the statement of service, that if this corrective action was taken, he would have over 20 years of qualifying service with the last eight years of qualifying service in the reserve component.

h. Subsequently, it was discovered that the 17 August 2000 statement for reserve retirement was in error in that it showed continuous active duty from 29 June 1961. The appropriate service record pages were forwarded to the Naval Reserve Personnel Center so that corrective action could be taken. Subsequently, NRPC issued a corrected statement for reserve retirement showing 18 years, 11 months and 20 days of qualifying service. However, the individual at NRPC who prepared the corrected statement believes that since he attended ACDUTRA during the anniversary year, ending in 1984, he was probably attending drills during this period.

i. The Board is aware that the Uniform Retirement Date Act, 5 U.S.C. 8301 requires that the effective day 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 does not believe Petitioner would have stopped drilling in September 1987 when he only needed 1 year and 10 days of qualifying service to qualify for retirement if he had been aware of his situation. There is nothing in the record to show that Petitioner could not have continued in a drilling status after 16 November 1987. However, even if there was, he could have earned qualifying years by completing correspondence courses. The Board believes that his command should have counseled him to remain in a drilling status or to complete correspondence courses to qualify for retirement, but it apparently failed to do so. If had qualified for retirement, he would have been eligible to request transfer to the Retired Reserve. The Board also believes that he probably attended drills in the anniversary years ending 28 June 1964. Therefore, the Board concludes that the record should be corrected to show that he qualified for reserve retirement and transferred to the Retired Reserve.

This action can be accomplished by transferring 21 retirement points from the excess over 50 in the anniversary year ending 28 June 1963 to the anniversary year ending 28 June 1964. In addition, 35 retirement points should be transferred from the excess over 50 from the anniversary years ending 13 September 1987 to the anniversary year ending 13 September 1988. With this correction, Petitioner will have over 20 qualifying years with the last eight in the reserve component. Given the requirements of the Uniform Retirement Date Act, the record should then be corrected to show that he transferred to the Retired Reserve in the rate of HM2 on 1 September 1990 vice being discharged on 13 September 1990.

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 status in the Retired Reserve.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by transferring 21 retirement points from the excess over 50 from the excess over 50 in the anniversary year ending 28 June 1963 to the anniversary year ending 28 June 1964, and by transferring 35 retirement points from the excess over 50 from the anniversary year ending 13 September 1987 to the anniversary year ending 13 September 1988.

b. That Petitioner's naval record be further corrected to show that he transferred to the Retired Reserve in the rate of HM2 on 1 September 1990 vice being discharged on 13 September 1990.

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

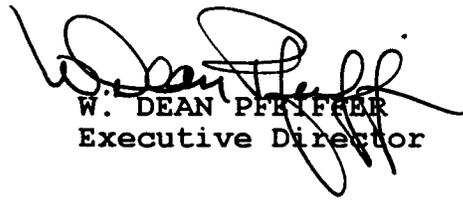
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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