



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

TRG
Docket No: 7451-00
20 February 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 he be transferred to the Retired Reserve vice being discharged on 14 July 1994.

2. The Board, consisting of Mr. Milner, Mr. Neuschafer and Ms. Hare, reviewed Petitioner's allegations of error and injustice on 13 February 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 was issued a Notification of Eligibility for Retired Pay at Age 60 on 29 May 1984. However, he continued to serve as a drilling reservist. On 5 February 1986 he reported to active duty and remained on active duty until he was released on 1 April 1989. On 15 July 1988 while on active duty, he reenlisted in the Naval Reserve for six years. He remained a member of the Individual Ready Reserve (IRR) until he was honorably discharged on 14 July 1994. Petitioner became 60 years old on 19 January 2001.

d. Petitioner states that in April 1988 he was issued an identification card that indicated he was in the Retired Reserve. Therefore, he did not understand that he had not been retired but was a member of the IRR until he was discharged.

e. The Board did not request an advisory opinion in this case. However, the Board is aware that the Navy Personnel Command has routinely recommended corrective action in similar cases when an individual is eligible to transfer to the Retired Reserve and errors occurred which resulted in discharge.

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 Naval Reserve and would have been transferred to the Retired Reserve if he had requested it in a proper manner. Therefore, the Board concludes that he should be transferred to the Retired Reserve in the rate of STS1 (E-6).

Given the requirements of the Uniform Retirement Date Act the Board further concludes that the record should show that Petitioner transferred to the Retired Reserve on 1 July 1994 vice being discharged on 14 July 1994. Since Petitioner is now 60 years old, the Board also concludes that he should be transferred to the Retired List on 19 January 2001, his 60th birthday.

Finally, the Board concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his current status on the Retired List.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Retired Reserve on 1 July 1994 in the rate of STS1 vice being discharged on 14 July 1994 and that the record also be corrected to show that he transferred to the Retired List on 19 January 2001, his 60th birthday.

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.



For W. DEAN PFEIFFER
Executive Director