



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

TRG  
Docket No: 8223-02  
11 December 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 former member in the Naval Reserve, filed an application with this Board requesting that her record be corrected to show that she transferred to the Retired Reserve under the provisions of the Reserve Transition Benefit (RTB) program.

2. The Board, consisting of Mr. Carlsen, Mr. Tew and Mr. Taylor, reviewed Petitioner's allegations of error and injustice on 4 December 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. Petitioner's application was filed in a timely manner.

c. Petitioner enlisted in the Navy Reserve on 28 August 1986 at age 41 and served continuously in an excellent manner until 13 December 2001 and was advanced to petty officer first class (IS1; E-6). On 13 December 2001 she was found not physically qualified and was placed in a records review status. On 15 February 2002 the Bureau of Medicine and Surgery found her not physically qualified for retention due to coronary artery disease. Consequently discharge or retirement was directed.

d. On 6 March 2002 she requested transfer to the Retired Reserve under the provisions of the RTB program. The RTB allows for early retirement to individuals with over 15 or more years of qualifying service if they are found not physically qualified for

retention. On 3 July 2002 her request for RTB retirement was denied because she did not apply within 40 days of removal from a drill pay status and BUMED did not make a final determination prior to 31 December 2001. There is no documentation in the record showing the date of her discharge.

e. Attached to enclosure (1) is an advisory opinion from the Naval Reserve Personnel Division that states, in part, as follows:

.... The procedures ..... for administering early retirement per the RTB program required the affected member to make an RTB election within 40 days of removal from a pay status, .... Reference (f) (the 18 July 2002 letter) erroneously stated that the effective date for determining eligibility for RTB was the date of BUMED's determination, which did not happen until February 2002. Although this type of delay would normally have been of no consequence to a member, it was in (her) case. On 31 December 2001, the RTB legislation expired. Therefore, any early retirement request submitted after that date could not be acted upon.

The advisory opinion recommended that Petitioner be transferred to the Retired Reserve on 31 December 2001 under the provisions of the RTB program.

f. Petitioner states in her application that she thought that she could not submit an application without the final decision from BUMED and this did not occur until 26 February 2002. Petitioner filed her application within 40 days of that event. She also points out that if she had applied on 12 December 2001 when she was found NPQ her application probably would not have been acted upon prior to 31 December 2001.

#### CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Since the statutory authorization for RTB expired on 31 December 2001, Petitioner was unable to have an RTB application processed and approved by that date. Therefore, the Board agrees with the recommendation contained in the advisory opinion. Consequently, Petitioner's record should be corrected to show that on 31 December 2001 she transferred to the Retired Reserve under the provisions of the RTB program in the rate of IS1, vice being discharged.

The Board further concludes that this Report of Proceedings

should be filed in Petitioner's naval record so that all future reviewers will understand her status in the Retired Reserve.

**RECOMMENDATION:**

a. That Petitioner's naval record be corrected to show that she on 31 December 2002 she transferred to the Retired Reserve in the rate of IS1 under the provisions of the RTB program, vice being discharged.

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