



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

TRG

Docket No: 758-03
23 April 2003

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) NPC ltr 5420 Pers-911 of 30 Jan 2001
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former commissioned officer in the Naval Reserve filed an application with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve, vice being discharged.

2. The Board, consisting of Mr. Grover, Mr. Harrison and Mr. Pfeiffer, reviewed Petitioner's allegations of error and injustice on 22 April 2003 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 limitation and review the application on its merits.

c. Petitioner was commissioned an ensign in the Naval Reserve on 12 August 1952 upon completion of officer candidate school. He then served on active duty for about three years. He was released from active duty on 17 October 1955. At the end of his anniversary year on 24 May 1956 he was credited with four years of qualifying service for reserve retirement. The next four anniversary years were not qualifying. He then began to drill and earned 16 consecutive qualifying years for retirement. During this period he was promoted to lieutenant commander (LCDR; O-4). On 13 September 1976 he was issued a Notification of

Eligibility for Retired Pay at Age 60. He apparently stopped drilling at that time and on 28 November 1977 he was issued a discharge certificate, dated retroactively to 30 June 1977 apparently because he had twice failed of selection. He became 60 years old on 26 March 1989 and has been receiving his retired pay as a "former member" since then.

d. At enclosure (1) is an advisory opinion from the Navy Personnel Command (Pers 911), recommending that Petitioner's record be corrected to show that he transferred to the Retired Reserve effective 1 January 1977, and transferred to the Retired List on 26 March 1989, his 60th birthday.

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 retired if he had requested it. Therefore, the Board agrees with the recommendation contained in the advisory opinion. Therefore, Petitioner's record should be corrected to show that he transferred to the Retired Reserve effective 1 January 1977 in the grade of LCDR. The record should then be corrected to show that he transferred to the Retired List on 26 March 1989, his 60th birthday.

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.

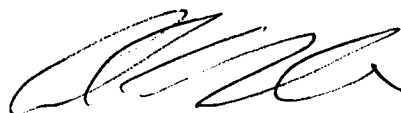
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Retired Reserve effective on 1 January 1977 in the grade of LCDR, vice being discharged on 30 June 1977. The record should then be corrected to show that he transferred to the Retired List on 26 March 1989, his 60th birthday.

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

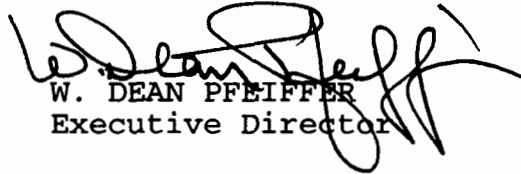
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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.


W. DEAN PFEIFFER
Executive Director