



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

TRG  
Docket No: 7388-03  
29 October 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) Case Summary  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Naval Reserve, filed an application with this Board requesting that his record be corrected to show that he was retired under the provisions of the Temporary Early Retirement Authority (TERA).

2. The Board, consisting of Ms. McCormick, Ms. Prevatt and Mr. Nicholson, reviewed Petitioner's allegations of error and injustice on 21 October 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 reenlisted in the Navy on 4 November 1992 for six years and subsequently extended that enlistment for another two years. The DD Form 214 shows that he was honorably discharged on 1 December 1999 by reason of hardship. At that time, he had completed 17 years and 27 days of active service and was serving as a petty officer first class (HT1; E-6).

d. Attached to enclosure (1) is an advisory opinion from

the Navy Personnel Command which states, in part, as follows:

.... (Petitioner) had a request in for early retirement under TERA at the time of his discharge. (He) fit all the qualifications for TERA but was not afforded the opportunity to finish the process. In light of this injustice (Petitioner) should have his record corrected and placed on retirement under TERA with all entitlement from his 1 December 1999 release date.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Since Petitioner had over 17 years of active service and was eligible for retirement under TERA, the Board agrees with the recommendation contained in the advisory opinion. Therefore, the Board concludes that Petitioner should be transferred to the Fleet Reserve under the provisions of TERA effective on 1 December 1999 vice the discharge of that date now of record.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand that he was retired under TERA.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Fleet Reserve effective on 1 December 1999 in the rate of HT1 vice the discharge actually issued on that date.

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