



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

TRG

Docket No: 11204-06
19 July 2007

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 in the Navy 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. [REDACTED], Ms. [REDACTED] and Ms. [REDACTED], reviewed Petitioner's allegations of error and injustice on 17 July 2007 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 limitations and review the application on its merits.

c. Petitioner reenlisted in the Navy Reserve on 21 September 1986 for six years. On 27 April 1988, he was issued a Notification of Eligibility for Retired Pay at Age 60. On 16 September 1989 he was promoted to chief petty officer (CMC; E-7). On 22 September 1992 a two month extension became effective. The statement of service for reserve retirement shows that he was honorably discharged on 19 November 1992. Petitioner was born on 5 September 1947 and will be 60 years old on 5 September 2007.

d. 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 when an individual is qualified for reserve retirement and there is no explanation in the record why the individual was discharged and not retired.

e. 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. Petitioner was in good standing in the Navy Reserve and would have been retired if he had requested it prior to the expiration of his enlistment. Therefore, the Board concludes that Petitioner should be transferred to the Retired Reserve in the grade of CMC. Given the requirements of the Uniform Retirement Date Act, the retirement should be effective on 1 November 1992, vice the discharge of 19 November 1992.

Since Petitioner will be 60 years old on 5 September 2007, only about seven weeks from the date of this letter, the Board further concludes that he should be transferred to the Retired List effective on 5 September 2007.

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 in the grade of CMC effective on 1 November 1992 vice the discharge of 19 November 1992 now of record.

b. Further, that on 5 September 2007 Petitioner be transferred to the Retired List.

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

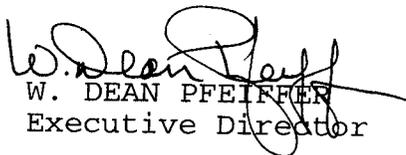
complete record of the Board's proceedings in the above entitled matter.

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