

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

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Docket No:6697-07
11 January 2008

From: Chairman Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) Case Summary

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member 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 and to the Retired List vice being discharged.
2. The Board, consisting of ████ . reviewed Petitioner's allegations of error and injustice on 8 January 2008 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 consider the application on its merits.
 - c. Petitioner reenlisted in the Naval Reserve for six years on 10 July 1983 in the grade of chief petty officer (BUC; E-7). Subsequently, he extended that enlistment for a period of six months. On 11 March 1985 he was issued a Notification of Eligibility for Retired Pay at Age 60. The record shows that he served in an

excellent manner throughout his career. He was honorably discharged on 9 January 1990 at the expiration of his enlistment as extended. A Statement of Service for Naval Reserve Retirement was obtained and shows that at the time of his discharge he had completed 25 years, 6 months and 12 days of qualifying service for reserve retirement. He became 60 years old on 6 March 2004.

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 Naval Reserve and would have been retired if he had requested it. in sufficient time prior to the expiration of his enlistment. Therefore, the Board concludes that Petitioner record should show that he transferred to the Retired Reserve in the rate of BUC. Given the requirements of the Uniform Retirement Date Act, the retirement should be effective on 1 January 1990, vice the discharge of 9 January 1990 now of record. Since he is now 60 years old, the record should be further corrected to show that he transferred to the Retired List on 6 March 2004, 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 1990, in the rate of BUC vice the discharge of 9 January 1990 now of record.

b. That Petitioner's record be further corrected to show that he transferred to the Retired List on 6 March 2004, his 60th birthday.

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.

[REDACTED]

[REDACTED]

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.

[REDACTED]