



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

TRG

Docket No: 1794-08
14 November 2008

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 Navy Reservist, filed an application with this Board requesting that his release from active duty be changed from 2 to 5 September 1994.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Ms. [REDACTED] reviewed Petitioner's allegations of error and injustice on 15 October 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 enlisted in the Navy for 4 years on 6 September 1990 and was released from active duty on 2 September 1994. Therefore, he was credited with 3 years, 11 months and 27 days of active service. Regulations in effect at the time and in effect now allow for early separation or discharge if the enlistment expires on a weekend or a holiday. Therefore, Petitioner has been treated no differently than thousands of others.

d. Petitioner was serving in the Regular Navy and was released from active duty and transferred to the Navy Reserve to complete the remainder of his military obligation. Regulations then in effect required that the beginning date of his reserve anniversary year be established as the first day in the reserve component. Since 3 September 1994, he has accumulated 13 years of qualifying service in the reserve component and is serving as a commissioned officer. Therefore, at the end of his anniversary year on 2 September 2008 he has been credited with 3 years, 11 months and 27 days of service in the Navy and 13 years in the Navy Reserve or 16 years, 11 months and 27 days.

e. Petitioner apparently believes that because of his early release from active duty he will have to serve another full year in the Navy Reserve to qualify for retirement. However, partial qualifying years can be credited if a discharge or retirement occurs during the anniversary year and sufficient points are earned to make that partial year qualifying.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Although the Board was aware that Petitioner has been treated no differently than thousands of others, the Board believes that given his record of excellent service that an exception should be made in this case. Accordingly, the Board concludes that his record should be corrected to show that he was released from active duty on 5 September 1994 vice the release date of 2 September 1994 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 the reasons for the change in the length of his service.

RECOMMENDATION:

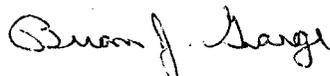
a. That Petitioner's naval record be corrected to show that he was released from active duty on 5 September 1994 vice the release date of 2 September 1994 now of record.

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


BRIAN J. GEORGE
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