



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

TRG  
Docket No: 4892-08  
18 June 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 former member of the Navy Reserve, filed an application with this Board requesting, in effect, that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 7 November 1998 or any other date in 1998.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 10 June 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 Navy Reserve on 8 November 1992 for 6 years as a petty officer first class (AMS1; paygrade E-6). On 13 May 1997 he was issued a Notification of Eligibility for Retired Pay at Age 60. Several months later on 1 November 1997 he transferred to the Individual Ready Reserve (IRR). It appears that the record should show that he was honorably discharged on 7 November 1998 at the expiration of his enlistment. Inexplicably, there is discharge documentation in the record showing that he was discharged on 2 December 1998.

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 he 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 in sufficient time prior to the expiration of his enlistment. Therefore, the Board concludes that Petitioner's record should be corrected to show that he transferred to the Retired Reserve in the grade of AMS1. Given the requirements of the Uniform Retirement Date Act, the retirement should be effective on 1 November 1998.

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 record be corrected to show that he transferred to the Retired Reserve effective on 1 November 1998, in the rate of AMS1, vice the discharge of 7 November 1998 now of record.

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

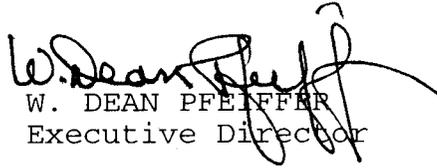
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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