



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

TRG  
Docket No: 6085-08  
1 May 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, filed an application with this Board requesting, in effect, that his record be corrected to show that he qualified for reserve retirement and transferred to the Retired Reservè vice being discharged on 21 March 2008.

2. The Board, consisting of Mr. [REDACTED] Mr. [REDACTED] and Ms. [REDACTED] reviewed Petitioner's allegations of error and injustice on 24 February 2009 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. Petitioner's application was filed in a timely manner.

c. Petitioner enlisted in the Regular Navy on 8 September 1999 and served on active duty until he was honorably discharged on 7 September 2003. On 8 September 2003 he enlisted in the Navy Reserve and was honorably discharged on 21 March 2004 for the purpose of enlisting in the Regular Navy. On discharge he had accumulated about 18 years of qualifying service in the Army, Navy and Navy Reserve, about 14 years of which was active duty in the Army and the Navy.

d. Petitioner reenlisted in the Regular Navy on 22 March 2004 for four years. He was honorably discharged on 21 March 2008.

e. Because his career pattern is complicated with service in the Army, Navy and Navy Reserve, the Navy believed at the time of his discharge on 21 March 2008 that he only had about 18 years of qualifying service for reserve retirement. His statement of service has now been corrected and shows 22 years of qualifying service and he is eligible for reserve retirement based on the number of qualifying years. The requirement that the last six years be served in the reserve component in order to be eligible for reserve retirement has been eliminated for individuals who qualified for reserve retirement after 25 April 2005. The Navy Personnel Command (NPC) has stated that he is not eligible for reserve retirement because he does not meet this requirement. He was born 20 June 1961 and will not be age 60 and eligible for retired pay until 20 June 2021.

f. The Board did not request an advisory opinion in this case. However, the Board is aware that the NPC has routinely recommended corrective action in similar cases when an individual has 20 years of qualifying service but did not meet the requirement that the last period of service must be in the reserve component.

g. 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 is eligible for reserve retired pay at age 60 except for the requirement that his last six years of qualifying service must have been in the reserve component. It is clear that because of the confusion as to his number of qualifying years there was no opportunity to counsel him on the reserve service requirement for retirement. Since he was clearly not aware of the requirement that his last service must have been in the reserve component, the Board concludes that his record should be corrected to establish his eligibility for reserve retirement.

In order to reach a total of six qualifying years in the reserve component it is required that his last two enlistments in the Regular Navy be changed to reserve enlistments. This can be accomplished by correcting the record to show that he enlisted in the Navy Reserve on 8 September 1999 for four years vice his enlistment in the Regular Navy on that date now of record and he served on active duty until he was honorably discharged on 7 September 2002. The record should then be corrected to show that he reenlisted in the Navy Reserve on 22 March 2004 for four years vice the reenlistment in the Regular Navy on that date now of

record.

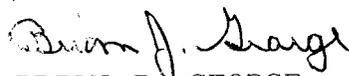
Since the Uniform Retirement Date Act requires retirement on the first of the month, the record should be further corrected to show that he extended his reserve enlistment of 22 March 2004 for a period of one month. The record will then show that he served on active duty as a reservist until he was released from active duty on 21 March 2008 with obligated service until 21 April 2008. The record should then be corrected to show that he transferred to the Retired Reserve with eligibility for retired pay at age 60 effective on 1 April 2008.

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:

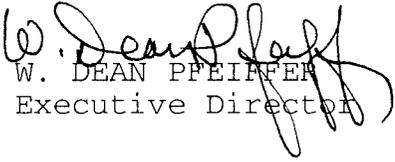
- a. That Petitioner's naval record be corrected to show that he enlisted in the Navy Reserve on 8 September 1999 and 22 March 2004 for four years vice the enlistments in the Regular Navy on those dates now of record.
  - b. The record should then be corrected to show that he was released from active duty on 21 March 2008 and that a one month extension became effective on 22 March 2008.
  - c. That Petitioner's record be further corrected to show that he transferred to the Retired Reserve effective on 1 April 2008 with eligibility for retired pay at age 60.
  - d. 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