



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100 TRG

Docket No: 8714-08

22 December 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, an enlisted member of the Navy Reserve, filed an application with this Board requesting that his record be corrected to show a break in service.

2. The Board, consisting of Ms. [REDACTED], Ms. [REDACTED] and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 9 December 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 states in his application that he was prevented from drilling because of medical issues and the request to resolve his physical status was not sent to the Bureau of Medicine and Surgery for 19 months. After review, he was found fit for duty. He is requesting that the record be corrected to show that he was discharged on 30 June 2003 and reenlisted on 14 March 2005. He is requesting this correction so that he will not be effected by the length of service limitations placed on individuals serving in pay grade E-6.

d. Attached to enclosure (1) is an advisory opinion from

the Navy Personnel Command which states, in part, as follows:

...in our opinion, there were sufficient errors committed in the processing of [his] physical qualification determination to warrant relief. During the period from 30 June 2003 and 13 March 2005, when [he] was not allowed to participate with the Navy Reserve, we recommend that the record reflect [that he] was honorably discharged from the Navy Reserve. The records should be further adjusted to reflect his subsequent reenlistment effective 14 March 2005. ...these actions will allow [him] the opportunity to earn two additional qualifying years towards retirement and may impact his advancement eligibility...

CONCLUSION:

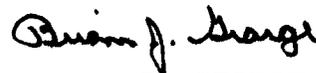
Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board agrees with the recommendation contained in the advisory opinion. Therefore, Petitioner's record should be corrected to show that he was honorably discharged on 30 June 2003 and reenlisted in the Navy Reserve on 14 March 2005 for the maximum period of six years.

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 break in his service.

RECOMMENDATION:

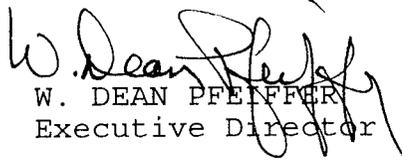
- a. That Petitioner's naval record be corrected to show that he was honorably discharged on 30 June 2003 and that he reenlisted in the Navy Reserve for six years on 14 March 2005.
- b. That this Report of Proceedings be filed in Petitioner's naval record.
4. It is certified that a quorum was present 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 PFENFFER
Executive Director