



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

TRG
Docket No: 9674-08
2 July 2009

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 retired Navy Reservist, filed an application with this Board requesting that his record be corrected to show that he was advanced to chief petty officer (BUC; pay grade E-7) prior to retirement.

2. The Board, consisting of Ms. [REDACTED] and Messrs. [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 16 June 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. Attached to enclosure (1) is an advisory opinion from the Navy Personnel Command (NPC), which states that Petitioner's request to be retained in an active status beyond age 60 was denied on 14 April 2009. He then submitted a request to transfer to the Retired Reserve with pay at age 60. This request was approved and he was retired effective on 3 May 2008, his 60th birthday, and he has received retired pay and entitlements since then. The advisory opinion also states that he was selected to chief petty officer as a result of the FY-09 Navy Reserve E-7 Selection Board. However, he was not selection board eligible and was only considered because the

proper screening did not take place. Because of these errors, the advisory opinion recommends that his retirement on 3 May 2008 be cancelled and that he be returned to the Selected Reserve so that can serve until he would have been promoted to BUC on 16 October 2008. It is then recommended that he be transferred to the Retired List effective 1 November 2008. His retired pay will still be computed from 3 May 2008, his 60th birthday.

e. The Board is aware that in order to receive retired pay as a chief petty officer an individual must complete two qualifying years in grade. He is now age 61 and it would have been burdensome for him to serve in an active status until 16 October 2010 and be in a status that would allow sufficient retirement points to be credited to have his retired pay computed as a BUC.

CONCLUSION:

Upon review and consideration of all the evidence of record and especially the recommendation contained in the advisory opinion, the Board concludes that Petitioner's request warrants favorable action. Therefore, his record should be corrected to show that he was retained in the Selected Reserve beyond his 60th birthday and should be continued in that status until he transferred to the Retired List on 1 November 2008. Since he will be in the selected reserve on 16 October 2008 he should then be advanced to BUC on that date.

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 his retirement date and promotion to chief petty officer.

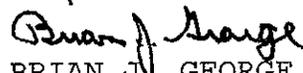
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was not retired on 3 May 2008 but remained in the Selected Reserve until he was advanced to chief petty officer on 16 October 2008 and then transferred to the Retired List on 1 November 2008.

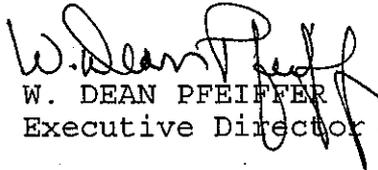
b. That this Report of Proceedings be filed in Petitioner's naval record.

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