



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

SMS

Docket No: 11329-08

16 January 2009

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) Case Summary

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the Navy Reserve, applied to this Board requesting to show that he was transferred to the Inactive Ready Reserve (IRR) vice being discharged on 29 October 2008, and recommended for retention.

2. The Board, consisting of Ms. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 7 January 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. Based on the information currently contained in the record, it appears that on 3 November 2007, while affiliated with the Ready Reserve, Petitioner reenlisted in the Navy Reserve at age 35 after five prior periods of honorable service. On 18 January 2008, he received a performance evaluation after successfully completing a two week course of instruction. On 15 March 2008, he received a performance evaluation which stated that he recently returned to a drilling

status after six months of authorized absence and received an individual trait average of 3.14.

c. On 28 August 2008, Petitioner's commanding officer initiated administrative separation by reason of unsatisfactory participation, and as evidence to support the recommendation, attached an unexcused absence drill report that showed Petitioner had earned 10 total drill points. The administrative separation recommendation was forwarded to Petitioner by certified mail, but he failed to respond. On 28 October 2008, his commanding officer notified the Navy Personnel Command that Petitioner would be separated locally with a general characterization of service due to unsatisfactory drill participation. On 29 October 2008, he was so discharged and assigned an RE-4 reenlistment code. At that time, his ITA was 3.14.

d. Petitioner's Navy Reserve anniversary point summary provided to the Board on 18 December 2008, shows an erroneous ending date of 29 October 2008, for his 2007-2008 anniversary year, credits him with 2 reserve membership points and 36 total points for that year, and also indicates that he completed more than 16 years of satisfactory service. Subsequent administrative corrections made to his Navy Reserve anniversary point summary shows that he earned 45 total points for his 2007-2008 anniversary year, and has completed 12 years, 4 months and 6 days of satisfactory service.

e. In his application, Petitioner states that he had moved to an area more than four hours from his drilling unit which made it difficult for him to attend drills and that he had requested a conditional release from the Navy Reserve to enlist in the Army, but no action was taken by the command. He further states that he has completed more than 12 years of service and he should not have been discharged, but transferred to the IRR. With his application, he provided a letter from the Army which states that he meets the qualifications to enlist and has been granted a waiver to retain his current pay grade.

f. Regulations authorize administrative separation of members in the Navy Reserve due to unsatisfactory participation in the Ready Reserve. Regulations also authorize transfer of members to the IRR in such cases. Regulations further state that a reasonable commuting distance is any distance within a 100 mile radius of a drill sight, but not exceeding that which can be travelled by automobile within three hours. Regulations also authorize conditional release of members from the Navy Reserve for enlistment in other branches of the armed forces.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants relief beyond what he requested. Specifically, the Board finds that the administrative separation action did not address all facts relevant to his case, specifically, excused absences, reasonable commuting distance, and accurate accountability of his drill participation. The Board also considers his overall service record that totaled more than 14 years of honorable satisfactory service with no disciplinary action. Accordingly, the Board concludes that Petitioner's record should be corrected to show that he was not discharged, but was transferred to the IRR, recommended for retention, authorized a conditional release from the Navy Reserve with an honorable characterization of service for enlistment in the Army, and excess points transferred from satisfactory years to his anniversary years ending on 20 September 2005 and 20 September 2008, to show that he earned 50 total points for those years, and also indicate those years as being satisfactory.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was transferred to the IRR on 29 October 2008, vice being administratively separated with a general discharge by reason of unsatisfactory drill participation.

b. That Petitioner's naval record be further corrected to show that he was recommended for retention and authorized a conditional release from the Navy Reserve with an honorable characterization of service for enlistment in the Army.

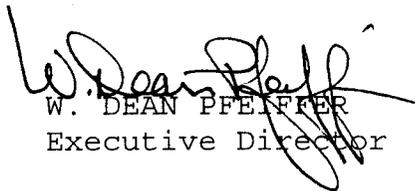
c. That Petitioner's naval record be further corrected by transferring excess points from other satisfactory years to his anniversary years ending on 20 September 2005 and 20 September 2008, to show that he earned 50 total points for both of those anniversary years, so that the corrected record will show that the anniversary years ending on 20 September 2005 and 20 September 2008, are satisfactory.

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 Regulation, 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