



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

TRG
Docket No: 11966-08
19 March 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 that his record be corrected to show that he was not discharged on 23 May 2008 but remained a member of the Navy Reserve.

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. Attached to enclosure (1) is an advisory opinion from the Navy Personnel Command (NPC) which states, in part as follows:

...[Petitioner] was separated from active duty under the provision of the Voluntary Separation Incentive (VSI) program on 8 November 1993...a service member must continue to serve in a reserve component in order to receive the annual payments authorized by the VSI program...

...NAF [Naval Air Facility] Washington processed [Petitioner] for administrative separation due to

unsatisfactory participation on 14 May 2008. Reserve Enlisted Status Branch (PERS-913) received and approved the administrative separation on 23 May 2008. PERS-913 was unaware that [Petitioner] had elected the VSI program. Had that information been known, we would not have approved the administrative discharge.

...In our opinion, it was an error to discharge [Petitioner] and therefore his petition warrants relief. He made reasonable attempts to transfer to the Individual Ready Reserve (IRR), before being declared an unsatisfactory participant; and as a member receiving VSI payments, our policy is to not discharge such members but rather retain them in the IRR or S-2 status to allow continued receipt of annual VSI payments. Therefore, his record should be corrected to show that he was not administratively separated, but rather that he was placed in the IRR effective 23 May 2008. Additionally, his contract should be updated to reflect a reenlistment for four years effective 22 November 2008. We also recommend that PERS-312 remove all adverse material related to [his] administrative separation from his official military personnel file...

CONCLUSION:

Upon review and consideration of all the evidence of record and especially the comments contained in the advisory opinion, the Board concludes that Petitioner's request warrants favorable action. Therefore, Petitioner's record should be corrected to show that he was not discharged on 23 May 2008 but was transferred to the IRR on that date. His record should then be further corrected to show that he reenlisted in the Navy Reserve on 22 November 2008 for four years. Finally all documentation concerning the erroneous discharge should be removed from his record.

RECOMMENDATION:

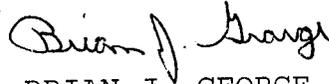
- a. That Petitioner's naval record be corrected to show that he was not discharged on 23 May 2008 but transferred to the IRR on that date
- b. That his record be further corrected to show that he reenlisted in the Navy Reserve for four years on 22 November 2008.
- c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely

expunged from Petitioner's record and that no such entries or material be added to the record in the future.

d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of 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