



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

Docket No: 12209-08
26 March 2009

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

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

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 applied to this Board requesting his naval record be corrected by being reinstated in the Navy Reserve rather than discharged on 7 April 2005.

2. The Board, consisting of Messrs. [REDACTED], J. [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 22 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. Petitioner reenlisted in the Navy Reserve on 3 November 2003 after prior active service. On 7 March 2005 Petitioner's commanding officer recommended that he be separated with a general discharge by reason of unsatisfactory participation based on his failure to attend drills. Petitioner contends that he advised his command that he would be unable to attend drills due to his employment overseas. He was not aware that he had to formally request transfer to the IRR. On 7 April 2005 he received a general discharge, and was assigned a reentry code of RE-4.

c. Navy Reserve regulations outline procedures for terminating voluntary reservists. Normally, a reservist who has shown consistently good performance would be transferred to the Individual Ready Reserve (IRR) and recommended for reaffiliation.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner's discharge was not improper but probably inappropriate. It believes that the general discharge was too harsh and the more favorable action of transferring him to the IRR and recommending reaffiliation should have been directed.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was not discharged on 7 April 2005 but transferred to the IRR and recommended for reaffiliation on that date.

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



JAMES R. EXNICIOS
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