



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

SJN  
Docket No: 01552-09  
16 July 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) DD Form 149 with attachments  
(2) Case Summary  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy Reserve, filed enclosure (1) with this Board requesting, in effect, that her record be corrected to show that she transferred to the Retired Reserve vice being discharged on 3 January 2008.

2. The Board, consisting of Mr. [REDACTED], Ms. [REDACTED], and Ms. [REDACTED] reviewed Petitioner's allegations of error and injustice on 14 July 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. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Navy and began a period of active duty on 14 December 1984. On 20 August 1986, she was honorably released and transferred to the inactive ready reserve due to pregnancy. On 26 March 1999, Petitioner reenlisted in the Navy and served honorably for over eight years until 2 January 2008, when she signed an enlisted evaluation, covering the period from 16 January 2007 to 3 January 2008, not recommending her for

retention. Based on the information currently contained her record it appears that Petitioner was discharged due to poor performance as the result of an administrative discharge board.

d. With her application, Petitioner forwarded a copy of her statement of service showing over 15 years of qualifying service prior to her last period.

e. An advisory opinion from the Navy Personnel Command (NPC) states, in part, the eligibility requirements for non-regular retirement per 10 U.S. Code 12731 have historically included earning 20 years of qualifying service and requiring that the last six years of qualifying service be served in a reserve component. Per a major change to the U.S. Code, members completing 20 years of qualifying service after 25 April 2005, are no longer required to earn the last six years in a reserve component to qualify for non-regular retirement pay at age 60. Petitioner completed 20 years of qualifying service after that date and therefore achieved eligibility in early 2006 for non-regular retirement per 10 U.S. Code 12731, even though she was a regular Navy member at the time. The advisory opinion concludes that to remedy this situation, that the last enlistment contract the Petitioner served should be changed from Navy to Navy Reserve with an expiration of obligation of 1 March 2008. Further, it was recommended that her discharge be cancelled and that she be transferred to the Retired Reserve effective 1 February 2008. The change to her military records would allow Petitioner to become eligible for reserve retired pay and benefits at age 60.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants full relief. Petitioner was in good standing in the Navy Reserve and credited with over 15 years of qualifying service prior to her last period of active duty. Therefore, the Board concludes that Petitioner's record should show that she transferred to the Retired Reserve in the rate of IS2.

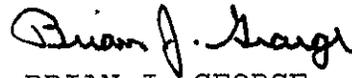
#### RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that she transferred to the Retired Reserve effective 1 March 2008, in the rate of IS2, vice the discharge of 3 January 2008 now of record.

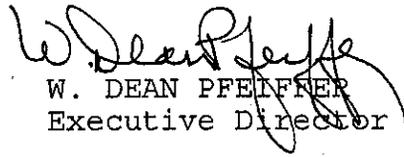
b. That this Report of Proceedings be filed in the Petitioner's naval record.

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 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