



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

TRG
Docket No: 2010-09
8 April 2009

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

Subj: REVIEW OF NAVAL RECORD OF EX-
[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, in effect, that her record be corrected to show that she transferred to the Retired Reserve vice being discharged on 26 April 1998.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Ms. [REDACTED] reviewed Petitioner's allegations of error and injustice on 21 March 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. Although it appears that Petitioner's application was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and consider the application on its merits.

c. Petitioner completed 20 years of qualifying service for reserve retirement purposes at the end of her anniversary year on 5 May 1997. Her enlistment expired and she was honorably discharged on 26 April 1998. At that time, she was serving as a petty officer first class (PN1; paygrade E-6). About four months later, she was issued a Notification of Eligibility for Retired Pay at Age 60. She will not be age 60 until 29 June 2015.

d. The Board did not request an advisory opinion in this case. However, the Board is aware that the Navy Personnel

Command has routinely recommended corrective action when an individual is qualified for reserve retirement and he/she was discharged prior to requesting transfer to the Retired Reserve.

e. The Uniform Retirement Date Act, 5 U.S.C. 8301, requires that the effective date of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. She was in good standing in the Navy Reserve and would have been retired if she had requested it in sufficient time prior to the expiration of his enlistment. Therefore, the Board concludes that her record should be corrected to show that she transferred to the Retired Reserve in the rate of PN1. Given the requirements of the Uniform Retirement Date Act, the retirement should be effective on 1 April 1998.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand her status in the Retired Reserve.

RECOMMENDATION:

a. That Petitioner's record be corrected to show that she transferred to the Retired Reserve effective on 1 April 1998, in the rate of PN1 vice the discharge of 26 April 1998 now of record.

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

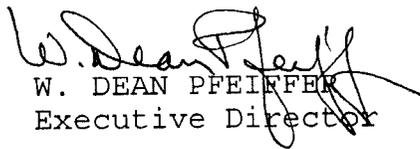
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

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