



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

SJN
Docket No: 05606-09
29 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 officer of the Marine Corps Reserve, filed enclosure (1) with this Board requesting, in effect, that her record be corrected to show that she transferred to the Retired Reserve list vice being discharged on 1 November 2006.

2. The Board, consisting of Ms. [REDACTED], Ms. [REDACTED], and Mr. [REDACTED], reviewed Petitioner's allegations of error and injustice on 21 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. On 31 October 2001, Petitioner was transferred to the Temporary Disability Retired List (TDRL). On 19 June 2001, she was notified of her entitlement to retired pay at age 60. On 1 November 2006, Petitioner was removed from the TDRL and discharged with severance pay due to physical disability.

d. With her application, Petitioner forwarded a copy of her statement of service showing 20 years of qualifying service prior to her discharge.

e. An advisory opinion from the Commandant of the Marine Corps states, in part, that Petitioner was eligible for a Reserve retirement with pay at age 60, and should have been given an opportunity to transfer to the Retired Reserve awaiting pay vice being discharged with severance pay. It was recommended that Petitioner's record be corrected to show she transferred to the Retired Reserve awaiting pay at age 60 and that she be informed that when she starts to draw retired pay, the entire amount of severance pay will be recouped.

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 Marine Corps Reserve and credited with 20 years of qualifying service. Therefore, the Board concludes that Petitioner's record should show that she transferred to the Retired Reserve in the rank of major.

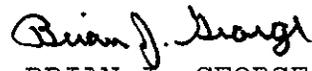
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that she transferred to the Retired Reserve effective 1 November 2006, in the rank of major vice being discharged with severance pay now of record.

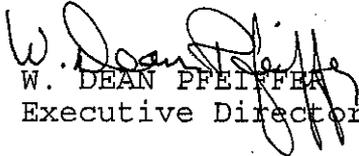
b. That this Report of Proceedings be filed in the Petitioner's naval record.

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