



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

REC  
Docket No: 01255-10  
1 April 2010

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 his record be corrected to show that he transferred to the Retired Reserve and the retired list vice being discharged on 31 May 1997.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 24 March 2010 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 enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy Reserve and began a period of service on 26 August 1970. On 31 May 1997, he was honorably discharged.

d. With his application, Petitioner forwarded a copy of his

statement of service showing over 21 years of qualifying service.

e. Naval regulations state in part, the eligibility requirements for non-regular retirement, per title 10, U.S. Code, section 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.

f. Petitioner was discharged on 31 May 1997, in pay grade E-6, AW1, instead of being transferred to the Retired Reserve. The change to his military records would allow Petitioner for reserve retired pay and benefits at age 60, which occurred on 15 January 2010.

g. The Uniform Retirement Date Act, 5 United States Code 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 full relief. Petitioner was in good standing in the Navy Reserve and credited with over 20 years of qualifying service. Therefore, the Board concludes that Petitioner's record should show that he transferred to the Retired Reserve in the rate of AW1, and that he be placed on the Retired List on 15 January 2010, his 60<sup>th</sup> birthday.

RECOMMENDATION:

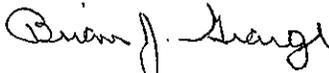
a. That Petitioner's naval record be corrected to show that he transferred to the Retired Reserve effective 1 June 1997, in the rate of AW1, vice the discharge on 31 May 1997.

b. That Petitioner's record be further corrected to show that he be transferred to the Retired List on 15 January 2010, his 60<sup>th</sup> birthday.

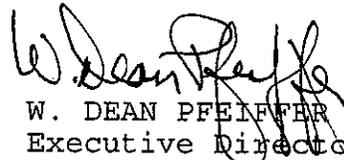
c. That this Report of Proceedings be filed in the Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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