



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

WJH
Docket: 4596-10
8 April 2011

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

Subj: [REDACTED] REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) NPC ltr 5420 PERS 913 of 9 Jan 2011
(3) Subject's naval record

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show that he was transferred to the Retired Reserve (Awaiting Pay at Age 60) vice discharged from the United States Navy Reserve.

2. The Board, consisting of Messrs. Pfeiffer, Zsalmán, and George reviewed Petitioner's allegations of error and injustice on 21 March 2011 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. On 31 October 1995, Petitioner was discharged from the United States Navy Reserve.

c. At the time of his discharge, Petitioner had 24 years, 5 months and 7 days service in the regular and reserve component combined. He was not eligible for non-regular retirement because he did not complete his last six years in the reserve component.

d. In March 2010, Petitioner submitted an application with this Board seeking to change his record to show that he was transferred to the Retired Reserve (Awaiting Pay at Age 60) vice being discharged.

e. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request warrants favorable action.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

That Petitioner's naval record be corrected, where appropriate, to show that:

a. The discharge of 31 October 1995 is null and void.

b. The six year enlistment beginning on 26 March 1984 and the 3 month extension signed on 16 March 1990 were in the reserve component vice the regular component. This change will ensure Petitioner's last six years were in the in the reserve component.

c. On 1 November 1996, Petitioner was transferred to the Retired Reserve (Awaiting Pay at Age 60) in pay grade E-7 with 24 years, 5 months and 7 days of qualifying non-regular service as computed under 10 USC Chapter 1223.

d. A copy of this Report of Proceedings be filed in 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 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


WILLIAM J. HESS, III
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.

8 April 2011


W. DEAN PFRIFFER
Executive Director