



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

WJH
Docket: 10540-10
21 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 911 of 4 Feb 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 is entitled to separation pay.

2. The Board, consisting of Messrs. Pfeiffer, Zsalman, and George reviewed Petitioner's allegations of error and injustice on 18 April 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. As a Commander in the US Navy Reserve who was approaching 28 years of service, Petitioner was subject to the attrition provisions of the US Code and was required to be transferred to the retired list (awaiting pay) or discharged no later than 30 July 2010, unless continued.

c. On 30 July 2010, Petitioner was serving on active duty pursuant to ADT orders spanning from 8 March 2010 to 30 September 2010. Because he had not sought continuation, he was transferred to the retired reserve (awaiting pay) effective 1 August 2010. In spite of the transfer, he continued serving past his attrition date until 15 September 2010.

d. On 15 September 2010, Petitioner was issued a DD Form 215 releasing him from active duty with an effective release date of 31 July 2010.

e. ~~In September 2010,~~ Petitioner submitted an application with this Board seeking a change to his record to be credited and compensated for the period of service between 1 August 2010 and 15 September 2010.

f. In correspondence attached as enclosure (2), the office having cognizance over US Navy Reserve retirement issues has commented to the effect that the request has merit and 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. Petitioner was authorized to continue his service as a member of the Ready Reserve until 30 September 2010.

b. The DD 214 will be changed to show Petitioner was released from active duty on 15 September 2010 (vice 31 July 2010).

c. The effective date of Petitioner's transfer to the retired reserve (awaiting pay) will be 1 October 2010 (vice 1 August 2010). He will be credited with additional retirement points earned for service after 1 August 2010.

e. That 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.

21 April 2011


For W. DEAN PFEIFFER
Executive Director