



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

CRS
Docket No: 3666-11
15 December 2011

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

Subj: FORMER SOC, USNR, [REDACTED] REVIEW OF
NAVAL RECORD

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

Encl: (1) DD Form 149

1. Pursuant to the provisions of reference (a), Petitioner applied to this Board requesting in effect, that his naval record be corrected to show that he was not discharged from the Navy Reserve on 4 November 2010.

2. The Board, consisting of Mr. Midboe, Mr. Hedrick, and Ms. Henkel, reviewed Petitioner's allegations of error and injustice on 23 November 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. Petitioner joined the Navy Reserve on 30 January 1997 after prior active service as a SEAL. On 6 August 2010 Petitioner was notified by official correspondence that he was delinquent on his dental exam and Physical Health Assessment. He did not respond to this correspondence. On 4 November 2010 he was honorably discharged by reason of unsatisfactory participation based on his inability to meet medical requirements.

c. Petitioner contends, in effect, that he was unjustly and illegally discharged. He states that he was out of the country with the knowledge and permission of his unit, and was unaware that he was being processed for separation for not responding to

correspondence concerning physical and dental examination requirements.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concluded that Petitioner's request warrants favorable action. In this regard, the Board notes that Petitioner's record is free of any disciplinary action, he had not missed any drills since 1997 and has completed numerous SEAL missions. The Board believes that the initiation of separation action was premature and further attempts to contact Petitioner should have been made. Accordingly, the Board concludes that Petitioner should be reinstated as of the date of discharge.

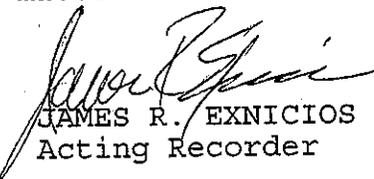
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was not discharged from the Navy Reserve on 4 November 2010, and that all information pertaining to the discharge processing be removed from his record.

b. That he be given authorized absences for the drills he missed during the period from 4 November 2010 to the date of implementation of this action.

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


JAMES R. EXNICIOS
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 PREIFFER
Executive Director