



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 1256-99

25 May 1999

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

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

Encl: (1) DD Form 149 w/attachments  
(2) Case Summary  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Naval Reserve filed enclosure (1) with this Board requesting that his record be corrected to establish eligibility for reserve retirement.

2. The Board, consisting of Mr. Zsalman, Mr. Milner and Ms. Nofzieger, reviewed Petitioner's allegations of error and injustice on 18 May 1999 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. Petitioner enlisted in the Naval Reserve on 26 April 1955 at age 17. At that time he had completed eight years of education and attained a GCT score of 36, which placed him in Mental Group IV. He then completed two periods of active duty from 6 February 1956 to 6 November 1957 and from 2 October 1961 to 1 August 1962. He was honorably discharged on 25 April 1963 at the expiration of his enlistment. At that time he was credited with five years of qualifying service. In one of the non-qualifying years he was credited with 21 retirement points, but he received only 15 membership points in the other two years.

d. On 13 March 1976, after a break in service of almost 13 years, he enlisted in the Army National Guard. The record shows that by 12 March 1990, he had earned 14 consecutive qualifying

years for retirement. The next year, ending on 12 March 1991 was not a qualifying year. Petitioner transferred to the Army Reserve control group on 1 November 1991 and did not earn any further qualifying years. He was honorably discharged in the grade of SGT (E-5) on 12 March 1995.

e. Petitioner was 60 years old on 31 March 1998 and requested his retired pay. However, this request was denied because he has only been credited with 19 years of qualifying service. He applied to the Board contending that a National Guard record of service was in error because it did not show his first period of active service in the Navy. He contends that with that period of service he would have 20 qualifying years. However, he has also submitted a National Guard Annual Statement which correctly shows all of his periods of active service. The annual statement shows that as of 12 March 1991 he was credited with 19 years of qualifying service. It has been verified that he earned no further qualifying years after 12 March 1991.

#### CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board believes that Petitioner must have thought he had 20 qualifying years in 1991 because it was certainly not in his best interest to quit drilling at that time with 19 years of qualifying service. Further, there is no documentation to show that he was counseled on his situation by anyone in the National Guard or the Army Reserve. The Board notes his limited education, low score on the aptitude test, and the fact that he was only a SGT after 14 years of service in the National Guard, and believes that he may not have understood that he did not meet the requirements for retirement. Although it appears that Petitioner's Navy retirement points have been correctly recorded, the Board concludes that a correction to his Navy record to establish eligibility for reserve retirement is now warranted, essentially as a matter of clemency.

Such action can be accomplished by transferring 29 retirement points from the excess in previous anniversary years to raise the total in the anniversary year ending 25 April 1999 to 50, making it a qualifying year for reserve retirement. With this change Petitioner's records can be updated to show that he has 20 qualifying years.

The Board notes that Petitioner will be eligible for retired pay as a former member since he has been discharged and not retired. However, Petitioner must be retired from his last component. Since the Board cannot correct Army records, Petitioner will have to apply to the Army Board for Correction of Military Records if

he wants to have the record corrected to show reserve retirement.

The Board further concludes that this Report of Proceeding should be filed in Petitioner's naval records so all future reviewers will understand the retirement point change.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by moving 29 retirement points from the excess in previous anniversary years to the anniversary year ending 25 April 1959.

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

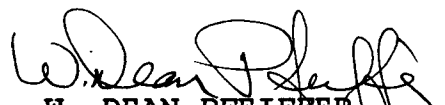
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder



ALAN E. GOLDSMITH  
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 PFEIFFER  
Executive Director