



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

TRG
Docket No:4444-01
25 July 2001

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 show that he transferred to the Retired Reserve vice being discharged on 24 January 1988.

2. The Board, consisting of Mr. Adams, Mr. Chapman and Ms. Hare, reviewed Petitioner's allegations of error and injustice on 24 July 2001 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 it appears that Petitioner's application 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 was issued a Notification of Eligibility for Retired Pay at Age 60 on 6 April 1972. However, he continued to serve in the Naval Reserve. On 25 January 1982 he reenlisted in the Naval Reserve for six years in the rate of MRCS (E-8) and continued to serve on active duty as a reserve recruiter. He was released from active duty on 30 September 1984. He then remained in the Individual Ready Reserve until his discharge on 24 January 1988 at the expiration of his enlistment. He became 60 years old on 8 September 1991.

d. Petitioner states, in effect, that he has recently been having trouble obtaining certain benefits because it has been discovered that he was discharged and is drawing his retired pay as a former member. He states that since he had over 30 years of qualifying service, he thought his retirement was automatic.

e. The Board did not request an advisory opinion in this case. However, the Board is aware that the Navy Personnel Command has routinely recommended corrective action in similar cases when an individual was qualified for reserve retirement and there is no explanation in the record why they were discharged and not retired.

f. The Board is aware that the Uniform Retirement Date Act, 5 U.S.C. 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 favorable action. Since he was in good standing in the Naval Reserve and would have been retired if he had requested it, the Board concludes that the record should be corrected to show that he transferred to the Retired Reserve in the rate of MRCS. Given the requirements of the Uniform Retirement Date Act, he should be transferred to the Retired Reserve effective 1 January 1988 vice being discharged on 24 January 1988. Since he is over 60 years old, the record should be further corrected to show that he transferred to the Retired List on 8 September 1991 his 60th birthday.

The Board further concludes that this Record of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status on the Retired List.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Retired Reserve in the rate of MRCS on 1 January 1988 vice being discharged on 24 January 1988. The record should be further corrected to show that he transferred to the Retired List on 8 September 1991 his 60th birthday.

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