



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

WJH
Docket: 6440-10
10 August 2010

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) CMC ltr 1800 MMSR-5 of 28 July 2010
(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 Marine Corps Reserve in 1991.

2. The Board, consisting of Messrs. Pfeiffer, Zsalman, and George reviewed Petitioner's allegations of error and injustice on 9 August 2010 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 8 December 1990, Petitioner had completed 20 years, 0 months and 0 days of qualifying reserve service for non-regular retired pay benefits (at age 60) under 10 USC chapter 1223.

c. At that time, Petitioner was eligible to request transfer to the Retired Reserve (Awaiting Pay at Age 60), however he failed to submit a timely request.

d. On 8 December 1990, Petitioner was discharged from the United States Marine Corps Reserve due to the expiration of his enlistment contract. He was not affiliated with the Armed Forces after the discharge.

e. In April 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 in 1990.

f. 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. On 1 January 1991, Petitioner was transferred to the Retired Reserve (Awaiting Pay at Age 60) in pay grade E-8 with 20 years, 0 months and 0 days of qualifying non-regular service as computed under 10 USC Chapter 1223.

b. 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.

10 August 2010


W. DEAN PFEIFFER
Executive Director