



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

TRG
Docket No: 8624-00
9 August 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) Statement of Service for Naval Reserve Retirement
(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 23 September 1998, and that his rate be changed to QMC(SS) from ETC.

2. The Board, consisting of Mr. Taylor, Mr. Pfeiffer and Mr. Beckett, reviewed Petitioner's allegations of error and injustice on 7 August 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. Enclosure (1) was filed in a timely manner.

c. The Board has been unable to obtain Petitioner's service record. However, at enclosure (2) is a Statement of Service for Naval Reserve Retirement which shows that as of 5 March 1996, his rate was ETC and he had completed 32 years and 17 days of qualifying service for reserve retirement. He apparently had no further participation in the reserve program until he was honorably discharged on 23 September 1998. The Statement of Service also shows that he became 60 years of age on 1 December 2000.

d. In support of his request, Petitioner has submitted a

letter from the commanding officer of the local reserve unit. That letter indicates that he is a QMC(SS) and sets forth various problems which led to his discharge before he could request retirement.

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 is qualified for reserve retirement and there is no explanation in the record why they were discharged and not retired.

f. The Board is also 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. The Board notes that Petitioner was in good standing in the Naval Reserve and would have been retired if he had requested it. Therefore, the Board concludes that he should be transferred to the Retired Reserve. Given the requirements of the Uniform Retirement Date Act, the retirement should be effective 1 September 1998. In addition, since he is now 60 years old the record should be corrected to show that he transferred to the Retired List on his 60th birthday. The date of his 60th birthday is believed to be 1 December 1940 but if it is not he should be transferred on the actual date.

Without the record the Board cannot verify his contention that the rate of ETC shown on the Statement of Service is in error. However, the Board notes that both Petitioner and the commanding officer of the reserve unit state that he is actually a QMC(SS). Since this is merely a cosmetic change, the Board concludes that the records should be changed wherever necessary to show that he is a QMC(SS).

The Board further concludes that this Report 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 on 1 September 1998 in the rate of QMC(SS) vice being discharged on 23 September 1998. The record should be further corrected to show that he transferred to the Retired List on 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