



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

TRG  
Docket No: 2660-02  
11 April 2002

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) Case Summary  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Naval Reserve filed an application with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 5 May 1993.

2. The Board, consisting of Mr. Pauling, Mr. Mackey and Ms. McCormick, reviewed Petitioner's allegations of error and injustice on 9 April 2002 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 reenlisted in the Naval Reserve on 6 May 1987 for two years, and subsequently extended that enlistment for 48 months. Therefore, his expiration of enlistment, as extended, was 5 May 1993. There are no entries showing a date of discharge in the record. However, the retirement point record shows that he has been credited with membership points through 5 May 1995, but there is no reenlistment contract or anything else in the record to support service after 5 May 1993. Therefore, it

appears that he was honorably discharged on 5 May 1993 in the rate of YN2 (E-5) at the expiration of his enlistment, as extended. On 3 January 1996 he was issued a Notification of Eligibility for Retired Pay at Age 60.

d. 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 he was discharged and not retired.

e. 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. 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 in the rate of YN2. Given the requirements of the Uniform Retirement Date Act, the retirement should be effective on 1 May 1993 vice the discharge which apparently occurred on 5 May 1993. The Navy Personnel Command is authorized to make the retirement date effective 1 May 1995 or the first of any other month if there is documentation to show that he actually served after 5 May 1993.

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 in the Retired Reserve.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Retired Reserve effective on 1 May 1993 in the rate of YN2, vice being discharged on 5 May 1993. The retirement date can be adjusted to 1 May 1995 or the first of any other month if there is documentation to show that he actually served after 5 May 1993.

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

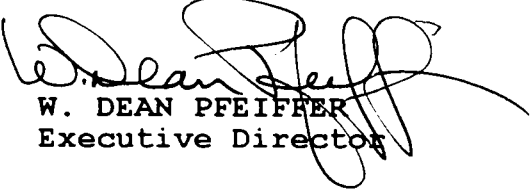
complete record of the Board's proceedings in the above entitled matter.

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