



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

TRG

Docket No: 7749-06

27 March 2007

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 Navy Reserve, filed an application with this Board requesting, in effect, that her record be corrected wherever necessary to establish eligibility for reserve retirement.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED], reviewed Petitioner's allegations of error and injustice on 20 March 2007 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 consider the application on its merits.

c. Petitioner reenlisted in the Navy for four years on 9 December 1993 and extended that enlistment on several occasions, totaling about 27 months. She was honorably discharged on 8 March 2000 with an RE-R1 reenlistment code. The DD Form 214 shows that she had completed 18 years, 9 months and 5 days of active service and was serving as a petty officer second class (AD2; E-5). At that time, she was 55 years old.

d. Petitioner contends that her DD Form 214 is in error and she actually has 20 years of active service. She further

contends that her record of inactive service is in error.

e. Attached to enclosure (1) is an advisory opinion from the Navy Personnel Command along with a revised statement of service, which shows Petitioner's National Guard service in the late 1970's which raised her total active service to 18 years, 11 months and 5 days. Since 20 years of active service is required, the advisory opinion concludes that she is not eligible for active duty retirement.

f. The revised statement of service was forwarded to the Navy Reserve section of the Navy Personnel Command, which made corrections and has provided a Statement of Service for Navy Reserve Retirement which now shows that she now has 20 years of qualifying service for Navy Reserve Retirement. The statement of service shows that she served in the Navy Reserve from 31 March 2000 to 30 March 2002 but did not earn qualifying years.

g. In order to be eligible for reserve retirement at the time of Petitioner's discharge in 2002 an individual had to accumulate 20 years of qualifying service, the last six of which must have been served in the reserve component. As indicated, Petitioner served in the Regular Navy until 8 March 2000. Therefore, she is not eligible for reserve retirement because she did not serve the last six years of qualifying service in the reserve component.

h. The Board is aware that the Navy Personnel Command has routinely recommended corrective action in those cases where an individual is qualified for reserve retirement, but has been discharged and not retired.

i. The Uniform Retirement Date Act, 5 U.S.C. 8301 requires that the effective date of any retirement must be the first of the month

#### CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. It is unclear from the record why she did not continue to serve on active duty, because she had good evaluations and was assigned the best possible reenlistment code. However, it is clear that Petitioner is now eligible for reserve retirement, except for the fact that the last six qualifying years were not served in the reserve component.

Given Petitioner's many years of excellent service, the Board concludes that the record should be corrected to show that she is eligible for reserve retirement. This action can be accomplished

by correcting the record to show that she enlisted in the Naval Reserve on 9 December 1993 vice in the Regular Navy, and that she served on active duty in the reserve component until her discharge on 8 March 2000. With this correction, Petitioner will have 20 qualifying years with the last six of those years in the reserve component.

Since Petitioner was in good standing in the Navy Reserve and is now qualified for retirement, the record should be further corrected to show that she transferred to the Retired Reserve in the rate of AD2 effective on 1 March 2002 which is the last possible first of the month. Since she reached her 60th birthday on 5 September 2006, the record should be further corrected to show that she transferred to the Retired List effective that date.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will under her status in the Retired Reserve.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that on 9 December 1993 she enlisted in the Navy Reserve vice the enlistment in the Regular Navy now of record and that she served on active duty in the Reserve component until she was honorably discharged on 8 March 2000.
  - b. That Petitioner's record be further corrected to show that she transferred to the Retired Reserve in the rate of AD2 on 1 March 2002 vice the discharge of 30 March 2002 now of record.
  - c. That Petitioner's record then be corrected to show that she transferred to the Retired List on 5 September 2006, her 60th birthday.
  - d. 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.

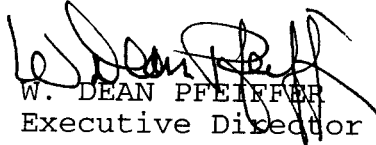
ROBERT D. ZSALMAN  
Recorder



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