



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

TRG
Docket No: 4874-07
15 February 2008

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 in the Navy Reserve filed an application with this Board requesting, in effect, that she be reinstated so that she can continue to receive payments under the Variable Separation Incentive (VSI) program.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED], and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 5 February 2008 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. Petitioner's application was filed in a timely manner.

c. Attached to enclosure (1) is an advisory opinion from the Navy Personnel Command that points out that in order to be eligible for VSI, the member must remain a member of a reserve component during the entire period of eligibility for VSI. Concerning this case, the advisory opinion states, in part, as follows:

...[Petitioner] affiliated with [a reserve unit]. Her pay entry base date was not accurately calculated upon affiliation, and as a result, she exceeded [high year tenure] limitations...[accordingly she was processed] for administrative separation by Reason [sic] of Defective Enlistments and Inductions - Erroneous

Enlistment...At the time, it was not known that [she] was receiving VSI.

The advisory recommends that the record be corrected wherever necessary to show that she had been continuously a member of the Navy Reserve and has received continuous VSI payments since the date of her erroneous discharge.

CONCLUSION:

Upon review and consideration of all the evidence of record and especially the recommendation contained in the advisory opinion the Board concludes that Petitioner's request warrants favorable action. The separation package and entries showing the date of discharge are not filed in Petitioner's record but she states that she was discharged on 12 December 2006. Therefore, the Board concludes that her record should be corrected to show that she was not discharged on 12 December 2006 or any other date and she has remained a member of the Navy Reserve since then. This correction will reestablish her eligibility for VSI without any break in the VSI payments.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand her entitlement to VSI.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that that she was not discharged on 12 December 2006 or any other date in 2006 and that she has remained a member of the Navy Reserve since then.
- 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


BRIAN J. GEORGE
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.



For W. DEAN PFEIFFER
Executive Director