



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

REC

Docket No: 10598-09
28 May 2010

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL OF RECORD [REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 with attachments
(2) Case summary
(3) PERS-91 memo dtd 19 Apr 10
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, an officer of the United States Navy Reserve, filed enclosure (1) with this Board requesting, in effect, that his record reflect continuous service vice the break in service with the resignation from the active component and transfer to the reserve component.

2. The Board, consisting of Ms. [REDACTED] Mr. [REDACTED] and Mr. [REDACTED] reviewed Petitioner's allegations of error and injustice on 26 May 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, and enclosures (1) through (4).

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. Petitioner was commissioned in the Navy on 25 May 2001. He served honorably and on 30 April 2008 was discharged vice transferred to the Individual Ready Reserve (IRR) as required per SECNAVINST 1920.6C to fulfill his obligated service. An administrative oversight occurred during his resignation process, as the Reserve appointment was not completed in a timely manner, thus causing the break in service of nine months and three days. However, during his break in service he did complete several correspondence courses and since has affiliated with the Selected Reserve (SELRES) community.

d. The Board requested an advisory opinion (enclosure (3)) in this case from the Bureau of Naval Personnel (PERS-91), which recommended that Petitioner's Reserve Oath of Office be changed from 2 February 2009 to 1 May 2008 to make his service continuous. Correction to his Certificate of Discharge or Release from Active Duty (DD-214) is required to reflect "Resigned" vice "Released from Active Duty" as well. With this relief approval, PERS-91 will make the adjustment to his pay entry base date, base date of commissioned service, and anniversary date. This action will also affect his promotion opportunities.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the recommendation in enclosure (3), the Board concludes that Petitioner's request warrants favorable action. The Board notes his patriotism to his country and bases its recommendation on his loyalty, desire to continue to serve his country, and the fact that through no fault of his own, his Navy Reserve commission was delayed.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that his Reserve Oath of Office be changed from 2 February 2009 to 1 May 2008 to make his service continuous, and that PERS-91 correct his pay entry base date, base date of commissioned service and anniversary date.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed, or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.


c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of 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 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 Regulation, 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