



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

WJH
Docket No. 1072-10
23 August 2010

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

Subj: REVIEW OF NAVAL RECORD ICO
[REDACTED]

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

Encl: (1) DD Form 149 w/attachments
(2) NPC Memo 5420 PERS 911 of 19 April 2010
(3) Subject's naval record

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show that he was voluntarily transferred to the Retired List (with pay) after completing more than 20 years of active service.

2. The Board, consisting of Mr. Pfeiffer, Mr. Zsalman, and Mr. George, reviewed Petitioner's allegations of error and injustice on 9 August 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. The Board also considered the advisory opinion attached as enclosure (2) which favorably supported Petitioner's request.

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 has served continuously in the United States Navy or the United States Navy Reserve since 1989.

c. As of 31 December 2009, while a member of the United States Navy Reserve, Petitioner had completed 20 years, 01 month and 00 days of active duty service.

d. Title 10 US Code Section 6323 permits an officer who has completed 20 or more years of active service, upon request, to be retired.

e. Because Petitioner had completed 20 years, 01 month and 00 days of active duty, he was eligible for transfer to the Retired List.

f. By enclosure (1), Petitioner has requested to be released from the Navy Reserve and transferred to the Retired List effective 1 January 2010.

g. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request has merit and warrants favorable action.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

That Petitioner's naval record be corrected, where appropriate, to show that:

a. On 31 December 2009, Petitioner requested to be released from the Navy Reserve and transferred to the Retired List under 10 USC Section 6323.


b. That Petitioner's request was approved and he was subsequently released from the Navy Reserve and transferred to the Retired List effective 1 January 2010 in pay grade O-4 with 20 years, 01 month and 00 days of active duty creditable for retired pay purposes. Note: Petitioner received a Separation Payment of \$116,082.78 in 2007. Recoupment of the Separation Pay payment will be in accordance with current law and policy. Note: Petitioner elected a Lump Sum Career Status Bonus payment (\$30,000) in 2004.

c. In order to implement the change described above, the following administrative actions should be taken: (1) PERS 823 will issue an authorization to transfer Petitioner to the Retired List and establish a retired pay account; (2) Copies of the retirement authorization will be sent to the Defense Finance and Accounting Service (DFAS), NOSC El Paso and PERS 9; (3) PERS 9 will provide DFAS with the Data for Payment of Retired Personnel/Survivor Benefit Plan Election Form (DD Form 2656); and PERS 3 will ensure the DEERS/Rapids database is updated to show the transfer to the Retired List.

d. A copy of this Report of Proceedings will be filed in Petitioner's naval record.


4. It is certified that 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


WILLIAM J. HESS, III
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.

23 August 2010


W. DEAN PFEIFFER
Executive Director