



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

TJR
Docket No: 1428-10
18 January 2011

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

Subj: REVIEW NAVAL RECORD OF [REDACTED]
[REDACTED]

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

Encl: (1) DD Form 149 with attachments
(2) Case summary with advisory opinion
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former member of the Navy Reserve, filed enclosure (1) with this Board requesting that her record be corrected to reflect recharacterization of her other than honorable discharge of 2 May 1989.

2. The Board, consisting of Messrs. Bourgeois, Butherus, and Sproul, reviewed Petitioner's allegations of error and injustice on 11 January 2011 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. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command (Code PERS-913), dated 13 December 2010, a copy of which is attached to enclosure (2).

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 enclosure (1) 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 enlisted in the Navy and began a period of active duty on 26 September 1985. On 29 January 1986 she was honorably released from active duty and transferred to the Navy Reserve upon the expiration of her term of active obligated service.

d. On 30 January 1986, Petitioner was recalled to active duty in the Ready Reserve. It appears that she served without disciplinary incident. However, it also appears that she failed to satisfactorily participate in the Ready Reserve. As such, she was processed for an administrative separation under other than honorable conditions by reason of unsatisfactory participation. Nevertheless, on 2 May 1989, she was erroneously issued a Record of Discharge from the U. S. Naval Reserve (Inactive) (NAVPERS 1070/615) which reflected a characterization of service as "honorable."

e. In an advisory opinion from PERS-913 it was noted that the record contained several administrative errors, and that although Petitioner's record reflected contradictory information regarding the characterization of her service, her request for an upgrade was warranted. In this regard, the advisory opinion stated, in part, as follows:

Servicemembers currently being separated by reason of unsatisfactory participation shall receive a characterization of separation of as either honorable or general under honorable conditions. Servicemembers currently being separated for unsatisfactory participation "typically" receive a characterization of discharge of general under honorable conditions.

Given the lack of documentation substantiating superior performance, PERS-913 is unable to support an honorable characterization of service for separation.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board substantially concurs with the comments and recommendations contained in the advisory opinion. Specifically, the Board concludes that her record should be corrected to reflect that she was administratively separated with a general under honorable conditions characterization of service.

Based on the foregoing the Board concludes that no useful purpose is served by continuing to show that Petitioner was processed for separation under other than honorable conditions, and as such finds the existence of an error and injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 2 May 1989 she was separated from the Navy Reserve with a general under honorable conditions characterization of service vice under other than honorable conditions on that same day.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.


c. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 2 October 2009.

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