



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

WJH  
Docket: 3162-10  
20 Oct 2010

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

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

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

Encl: (1) DD Form 149 w/attachments  
(2) NPC ltr 1811 PERS 8333 of 11 Jun 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 retired effective 1 April 2010.

2. The Board, consisting of Messrs. Pfeiffer, Exnicios and George reviewed Petitioner's allegations of error and injustice on 18 Oct 2010 and, pursuant to its regulations, determined that the partial 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 was retired from active duty effective 1 April 2007 which was earlier than was required by the law in effect at the time.

c. Petitioner was afforded an opportunity to return to active duty, but did not accept.

d. In correspondence attached as enclosure (2), the office having cognizance over Navy retirements commented to the effect that partial relief is warranted only through 1 June 2008.

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 partial corrective action.

RECOMMENDATION:

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

a. Petitioner was transferred to the retired list effective 1 June 2008 vice 1 April 2007.

b. The DD 214 (Certificate of Release or Discharge from Active Duty) of 31 March 2007 reflecting Petitioner's separation and transfer from active status to retired status is null and void. Petitioner continued on active duty through 31 May 2008 when he was transferred to the retired list to be effective 1 June 2008.

c. So much of Petitioner's request for corrective action as exceeds the foregoing be denied for the reasons stated in enclosure (2).

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

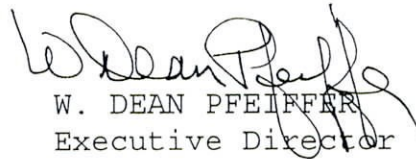
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6 (c) it is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings 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.

20 Oct 2010

  
W. DEAN PFEIFFER  
Executive Director