



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

LCC
Docket No. 9505-10
10 Feb 11

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) CMC MMSR-5 memo, 16 Dec 10
(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 the Petitioner was transferred to the Retired Reserve List (Awaiting Pay at Age 60) vice being discharged from the United States Marine Corps Reserve.

2. The Board, consisting of Messrs. Exnicios, Pfeiffer, and Zsalman, reviewed Petitioner's allegations of error and injustice on 7 February 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.

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. 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. Petitioner's discharge of 14 March 2006 is null and void.
- b. Petitioner's enlistment of 15 April 2004 was extended for a period of approximately 2 months which would make his enlistment expire on or about 14 May 2006.
- c. On 16 April 2006 Petitioner voluntarily requested to be transferred to the Retired Reserve List (Awaiting pay at age 60).
- d. On 1 May 2006 Petitioner was transferred to the Retired Reserve List (Awaiting pay at age 60) in pay grade E-7 with 20 years of qualifying non-regular service as computed under 10 USC Chapter 1223.
- e. 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 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.

10 February 2011


For W. DEAN PFEIFFER
Executive Director