



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

WJH
Docket No. 975-11
3 August 2011

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) BUPERS ltr 7220 PERS 8353 of 5 May 2011
(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 Petitioner retired on 1 February 2011 vice any other date.
2. The Board, consisting of Mr. Pfeiffer, Mr. Zsalman, and Mr. George, reviewed Petitioner's allegations of error and injustice on 1 August 2011 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. 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 partial merit and warrants partial 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 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 April 2008 vice 1 November 2006.

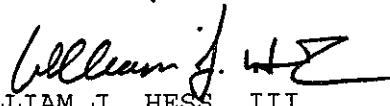
b. The DD 214 (Certificate of Release or Discharge from Active Duty) of 31 October 2006 reflecting Petitioner's separation and transfer from active status to retired status is null and void. Petitioner continued on active duty through 31 March 2008 when he was transferred to the retired list to be effective 1 April 2008.

c. That relief in excess of the above be denied. By letter dated 21 February 2008, Petitioner was notified of the administrative error and advised of his opportunity to return to active duty or request a later retirement date. Thereafter, he took no action until 26 January 2011 when enclosure (1) was received. The Board determined that by 1 April 2008, Petitioner had been afforded a reasonable opportunity to make his election. Accordingly, relief beyond that date is unwarranted.

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.

3 August 2011


W. DEAN PFEIFFER
Executive Director