



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

TRG
Docket No: 8893-02
13 November 2002

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

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

Encl: (1) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a retired reserve officer filed an application with this Board requesting that his record be corrected to allow him an opportunity to qualify for retired pay at age 60.

2. The Board, consisting of Mr. Brezna, Mr. Kastner and Mr. McPartlin, reviewed Petitioner's allegations of error and injustice on 5 November 2002 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. Although it appears that Petitioner's application 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 was commissioned in the Naval Reserve on 14 June 1966. During the next 20 years, he earned 19 years of qualifying service for reserve retirement and was promoted to commander (CDR; O-5). Only the anniversary year ending 13 June 1975 is not qualifying for retirement, because he only earned 42 of the required 50 retirement points necessary for a qualifying year. Inexplicably he requested honorary retirement and was retired effective 1 August 1986.

d. Petitioner states that due to a commitment to his business, he felt that he could not continue in the Naval Reserve. Therefore, he requested an honorary retirement with the intent of returning to a drilling status at a later date to earn retirement with eligibility for retired pay at age 60. He states that he was improperly advised at the time that such action would be possible, and is now being denied a return to drilling status because of his age and length of commissioned service. Petitioner will be 60 years of age on 27 September 2004.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner was in good standing in the Naval Reserve at the time of his retirement in 1986 and would have been retained in the Individual Ready Reserve if he had requested it. Further, he needed only one more qualifying year to attain eligibility for retired pay at age 60 and in his one non-qualifying year, he was only eight points short of the requisite 50 points. It was clear to the Board that he did not understand his situation and he should have been properly advised of his options before his request for retirement was approved. Given the circumstances, the Board believes that Petitioner is not eligible to return to the IRR and no useful purpose would be served by such action. Therefore, the Board concludes that the record should be corrected by transferring eight retirement points from the anniversary year ending 13 June 1974 into the anniversary year ending 13 June 1975. He then should be issued a Notification of Eligibility for Retired Pay at Age 60. Since he is already retired, no further action is necessary.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his eligible for retired pay at age 60.

RECOMMENDATION:

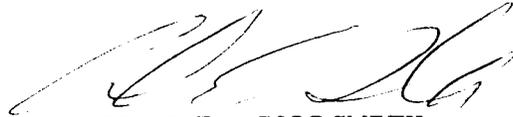
a. That Petitioner's naval record be corrected by transferring eight retirement points from the anniversary year ending 13 June 1974 into the anniversary year ending 13 June 1975 and that he be issued a Notification of Eligibility for Retired Pay at Age 60.

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

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and

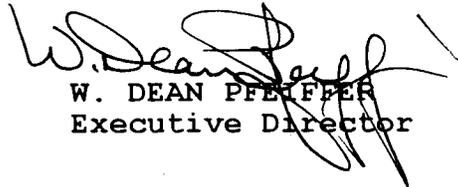
complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
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.



W. DEAN PFEIFFER
Executive Director