



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

HD:hd
Docket No: 02892-99
20 August 1999

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

Subj: CDR [REDACTED], USN(RET) [REDACTED],
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 28 Apr 99 w/attachments
(2) PERS-85 memo dtd 11 Jul 99
(3) PERS-822 memo dtd 18 Jul 99
(4) PERS-43 memo dtd 28 Jul 99
(5) 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 reflect that he was not retired on 1 March 1999; that he has served on active duty continuously after that date; and that he was promoted to captain with the date of rank and effective date he would have received, had he not left active duty.

2. The Board, consisting of Messrs. Bishop, Pfeiffer and Taylor, reviewed Petitioner's allegations of error and injustice on 12 August 1999, 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. Petitioner retired from the Navy on 1 March 1999 as a commander after 22 years of service. His reason for requesting retirement was that he did not believe he was promotable to captain. The Fiscal Year (FY) 00 Captain Unrestricted Line Selection Board, which met before he was to retire, recommended him for promotion, which would have allowed him to complete 30 years of naval service. He asserts that had he known of his selection, he would not have requested retirement. However, the results of the selection board were not announced until 7 April 1999, after he had retired and was therefore no longer eligible for promotion.

c. In correspondence attached as enclosure (2), PERS-85, the Navy Personnel Command (NPC) office with cognizance over active duty officer promotions, has commented to the effect that Petitioner's request has merit and warrants full approval. PERS-85 has advised that his projected promotion date, if his petition is approved, is 1 December 1999.

d. In correspondence attached as enclosure (3), PERS-822, the NPC office with cognizance over officer retirements, also recommended approval of Petitioner's request to remove his name from the retired list, return him to the active duty list, and allow his promotion to captain to proceed as scheduled.

e. In correspondence attached as enclosure (4), PERS-43, the NPC office with cognizance over aviation officer distribution, has highly recommended approval of Petitioner's request.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (2), (3) and (4), the Board finds the existence of an injustice warranting the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected, where appropriate, to show that he was not retired on 1 March 1999, but served on active duty continuously after that date; and that he be reinstated to active duty accordingly.

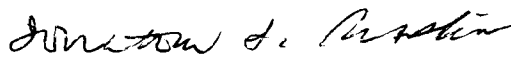
b. That PERS-85 be notified of this action, so that Petitioner's promotion pursuant to his selection by the FY 00 Captain Unrestricted Line Selection Board can be effected when due.

c. That any material or entries inconsistent with the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.


d. That a copy of this Report of Proceedings be filed at an appropriate location in Petitioner's naval record, and that another copy of this report be returned to this Board, together with any material directed to be removed from Petitioner's record, for retention in a confidential file maintained for such purpose.

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


JONATHAN S. RUSKIN
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