

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

BJG

Docket No: 764-00 2 June 2000

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

Subj: LTCOL FINAL RECORD USMC, REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 26 Jan 00 w/attachments

- (2) HQMC MMOA-4 memo dtd 29 Feb 00
- (3) HQMC MMPR memo dtd 6 Mar 00
- (4) Subject's naval record

1. Pursuant to reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by removing his failure by the Fiscal Year (FY) 2000 Lieutenant Colonel Selection Board. He further requested that his record be corrected to show the lineal position, date of rank, and effective date in the grade of lieutenant colonel he would have been assigned had he been selected by the FY 2000 Lieutenant Colonel Selection Board, vice the FY 2001 Lieutenant Colonel Selection Board. He specifically requested a date of rank and effective date of 1 July 1999.

2. The Board, consisting of Messrs. Bishop, Kastner, and Lightle, reviewed Petitioner's allegations of error and injustice on 1 June 2000, 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. After Petitioner failed before the FY 2000 Lieutenant Colonel Selection Board, he was granted a special selection board (SSB) on the basis of missing material. However, before his SSB could convene, he appeared before the FY 2001 Lieutenant Colonel Selection Board with a corrected record in the status of having previously failed, and he was selected for promotion. He was promoted to lieutenant colonel with a date of rank and effective date of 1 June 2000.

c. In correspondence attached as enclosure (2), the Headquarters Marine Corps (HQMC) Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMOA-4), the office with cognizance over the subject matter of this case, has commented to the effect that Petitioner's request has merit and warrants favorable action.

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d. In correspondence attached as enclosure (3), the HQMC Promotion Branch has commented to the effect that had Petitioner been selected by the FY 2000 Lieutenant Colonel Selection Board, he would have been assigned a date of rank and effective date of 1 July 1999.

CONCLUSION:

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

RECOMMENDATION:

a. That Petitioner's naval record be corrected, where appropriate, by removing his failure of selection by the FY 2000 Lieutenant Colonel Selection Board.

b. That Petitioner's naval record be further corrected to show his date of rank and effective date in the grade of lieutenant colonel as 1 July 1999; and that his lineal precedence be adjusted accordingly.

c. That any material or entries inconsistent with or relating to 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 any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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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

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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 Executive Direct

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DEPARTMENT OF THE NAVY HEADQUARTERS UNITED STATES MARINE CORPS 3280 RUSSELL ROAD QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1600 MMOA-4 29 Feb 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

Subj: BCNR PETITION FOR SMC

Ref: (a) MMER Request for Advisory Opinion in the case of

of 25 Feb 00

(b) CMC ltr 1401/2 MMPR of 24 Nov 99

1. Recommend approval **control** is request for backdating his date of rank and implied request for removal of his failure of selection. This opinion gives him the benefit of the doubt.

2. Per reference (a), we reviewed record and petition. From Failed selection on the FY00 USMC Lieutenant Colonel Selection Board. He successfully petitioned the Secretary of the Navy for a Special Selection Board (SSB). However, he was selected for promotion from Above Zone on the FY01 board before the SSB could convene. From the secretary of his date of rank.

3. Normally, a single factor does not cause a failure of selection. However, as is evident by his selection to Lieutenant Colonel, the SSB approval in reference (b), remains germane. We conclude the material error in his record as it appeared before the FY00 Board more than likely led or contributed to his failure of selection. Therefore, we recommend approval of request for backdating his date of rank and implied request for removal of his failure of selection. This opinion gives him the benefit of the doubt.

Lieutenant Colonel, U. S. Marine Corps Head, Officer Career Counseling and Evaluation Section Officer Assignments Branch Personnel Management Division



DEPARTMENT OF THE NAVY HEADQUARTERS UNITED STATES MARINE CORPS MANPOWER AND RESERVE AFFAIRS DEPARTMENT HARRY LEE HALL, 17 LEJEUNE ROAD QUANTICO, VIRGINIA 22134-5104

IN REPLY REFER TO: 1412/1 MMPR 6 Mar 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

Subj: ADVISORY OPINION IN THE CASE OI

1. **Description** for backdating is approved, his date of rank and effective date will be 1 July 1999. This is the date of rank he would have received upon selection from the FY00 USMC Lieutenant Colonel Selection Board.

2. Point of contact is

By direction