



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

HD:hd
Docket No: 01115-01
15 August 2001

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

Subj: LCDR [REDACTED], USNR [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 7 Feb 01 w/attachments
(2) Pers-911 memo dtd 4 Apr 01
(3) PERS-86 memo dtd 19 Apr 01
(4) 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 by changing the date of acceptance of his commission as a lieutenant commander, U. S. Naval Reserve from 14 June and 28 July 1999 to 1 June 1999, the day after he left active duty, and that he be administratively promoted to commander. He was selected by the Fiscal Year (FY) 02 Naval Reserve Line Commander Selection Board, but he has not yet been promoted.

2. The Board, consisting of Messrs. Bishop, Morgan and Shy, reviewed Petitioner's allegations of error and injustice on 9 August 2001, 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 Navy Personnel Command (NPC) office with cognizance over Naval Reserve personnel administration has commented to the effect that Petitioner's request to change the acceptance date of his commission has merit and warrants favorable action. They recommend changing the date of acceptance on the oath of office to 1 June 1999 and state that if this recommendation is approved, they will submit a corrected oath of office and statement of service to reflect no break in service.

c. In correspondence attached as enclosure (3), the NPC office with cognizance over Naval Reserve officer promotions has commented to the effect that Petitioner's request for administrative promotion to commander should be disapproved, as promotion cannot properly be accomplished without selection by a statutory promotion board (as noted above, he has been selected for promotion to commander, so "administrative promotion" is unnecessary). However, they stated that if his request for correction of his acceptance of oath date is approved, and he is selected by the FY 02 promotion board, they would recommend assigning him a commander date of rank commensurate with his active running mate, 1 October 2000. As Petitioner has not yet been promoted to commander, and he did not request that his promotion be backdated, this recommendation is premature. When he is promoted to commander, he may submit a new application to this Board to adjust his commander date of rank and effective date to reflect selection by the FY 01 Naval Reserve Line Commander Selection Board.

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 limited corrective action.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected, where appropriate, to show he accepted his commission as a lieutenant commander, U. S. Naval Reserve on 1 June 1999, vice 14 June and 28 July 1999.
- b. That his anniversary date and pay entry base bade be adjusted accordingly.
- 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.
- e. That the reminder of Petitioner's request be denied.

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
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.

Robert D. Zsalmán
For W. DEAN PFEIFFER
Executive Director



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1113-01

IN REPLY REFER TO
5420
Pers-911
4 Apr 01

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

Via: Assistant for BCNR Matters (Pers-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO
LCDR [REDACTED], [REDACTED]

Encl: (1) BCNR memo 5420 Pers-00ZCB of 11 May 00

1. Enclosure (1) is forwarded with the following comments and recommendations concerning [REDACTED] case.

2. Based on the information in [REDACTED]'s petition, we agree that there was an administrative oversight in the processing of his Oath of Office. In his request to resign his active commission he requested a reserve commission, was recommended for one, and one was issued.

3. [REDACTED]'s Oath of Office is currently on file in his permanent record at Navy Personnel Command. We recommend that the date of acceptance on the Oath of Office be changed from 28 July 1999 to 1 June 1999. If LCDR [REDACTED]'s request is approved, we will submit a corrected Oath of Office and a corrected statement of service to reflect no break in service

4. The Naval Reserve Officer Promotions Branch (PERS-861) will address [REDACTED]'s request for promotion.

5. Point of contact in this matter is [REDACTED] White at DSN [REDACTED] for commercial [REDACTED]

[REDACTED]

Deputy Director, Naval Reserve
Personnel Administration Division



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND

5720 INTEGRITY DRIVE

MILLINGTON TN 38055-0000

5420

PERS-86

19 APR 2001

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATION IN CASE OF LCDR [REDACTED] USNR [REDACTED]

Encl: (1) BCNR File 01115-01 w/Service Record

1. We are returning enclosure (1) with the following observations and recommendation that Lieutenant Commander [REDACTED] request for date of rank adjustment be approved and his request for promotion to Commander be disapproved.

2. We are in agreement with the PERS-9 advisory opinion that Lieutenant Commander [REDACTED] 14 June 1999 date of rank was an administrative error and should be corrected to 1 June 1999 to maintain service continuity.

3. Lieutenant Commander [REDACTED] request for promotion can not be approved administratively. Officer promotion can only be accomplished through selection by a statutory promotion board. Lieutenant Commander Gigliotti was deferred for promotion consideration by the FY-01 Naval Reserve Commander Line selection board due to the break in service between his active duty resignation and his reserve Acceptance of Oath date. Consequently, his record was not considered until the FY-02 Naval Reserve Commander Selection Board convened in March 2001. The results from that board will be released approximately 60-90 days from the date of the board's adjournment.

4. If Lieutenant Commander [REDACTED] request for correction of his Acceptance of Oath date is approved and he is selected by the FY-02 board, we would further recommend an assignment of a date of rank commensurate with his Active-Duty running mate which is 1 October 2000.

[REDACTED]

Director, Reserve Officer Promotions, Appointments, and Enlisted Advancement Division