



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

HD:hd
Docket No: 04613-01
16 October 2001

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

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

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

Encl: (1) DD Form 149 dtd 6 Jun 01
(2) PERS-85 memo dtd 28 Jun 01
(3) BCNR rept in Subject's prior case,
docket no 5876-00, dtd 22 Jan 01
(4) Memo for Record dtd 16 Jul 01
(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 show the lineal position, date of rank, and effective date in the grade of commander he would have been assigned had he been selected for promotion to that grade by the Fiscal Year (FY) 01 Active Duty Line Commander Selection Board, vice the FY 02 Active Duty Line Commander Selection Board. His current date of rank and effective date is 1 October 2001.

2. The Board, consisting of Messrs. Carlsen and Caron and Ms. Suiter, reviewed Petitioner's allegations of error and injustice on 12 October 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), PERS-85, the Navy Personnel Command (NPC) 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. They stated that he had been granted a record correction by this Board's action on 22 January 2001 (copy

at enclosure (3)); that the Board had recommended that he be granted a special selection board for the FY 01 Active Duty Line Commander Selection Board, but before the special board, he was selected by the regular FY 02 board; and that it is reasonable to consider that had his record gone before the FY 01 regular board, he would have been selected.

c. The memorandum for the record at enclosure (3) ⁽⁴⁾ shows PERS-85 advised that Petitioner would have received a date of rank and effective date of 1 August 2001, had he been promoted pursuant to selection by the FY 01 Active Duty 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 (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 his date of rank and effective date in the grade of commander as 1 August 2001 vice 1 October 2001; and that his lineal precedence be adjusted accordingly.

b. 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.

c. 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
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.



FR W. DEAN PFEIFFER
Executive Director



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

5420
PERS-85
28 Jun 01

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: LCDR [REDACTED], USN, [REDACTED]

Encl: (1) BCNR File

1. Enclosure (1) is returned, recommending approval of LCDR [REDACTED] request to backdate his date of rank.
2. LCDR [REDACTED] was granted a record correction by BCNR on 22 January 2001. All administrative and BCNR actions were completed on 02 February 2001. BCNR recommended the member be granted a FY-01 Active Duty Commander Line Special Promotion Selection Board.
3. Prior to the special selection board, scheduled 27 July 2001, LCDR [REDACTED] was selected by the regular FY-02 Active Duty Commander Line Promotion Selection Board. It is reasonable to consider that had [REDACTED] record gone before the FY-01 selection board he would have been selected. Recommend LCDR [REDACTED] be granted the requested date of rank backdate.

[REDACTED]

BCNR Liaison, Officer Promotions
and Enlisted Advancements Division

HD:hd
16 July 2001

MEMORANDUM FOR THE RECORD

Subj: [REDACTED], [REDACTED]
Docket [REDACTED]

1. This memorandum for the record is to document a phone conversation between this staff member and Lieutenant [REDACTED] USN, Pers-85.

2. In their advisory opinion dated 28 June 01, they recommend approval of member's request to backdate his date of rank but failed to provide that date assigned. In this phone conversation [REDACTED] indicated that member's date of rank in the grade of commander would have been 1 August 01 had he gone before the FY 01 Commander Line Selection Board.

[REDACTED]