



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

HD:hd
Docket No: 05746-00
18 October 2000

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

Subj: CDR [REDACTED], MC, USNR [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 15 Aug 00 w/attachments
(2) PERS-85 memo dtd 14 Sep 00
(3) 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 his promotion been confirmed without administrative delay. He specifically requested a date of rank and effective date of 1 December 1997. His current date of rank and effective date are 30 April 1998.
2. The Board, consisting of Messrs. Chapman, McPartlin and Taylor, reviewed Petitioner's allegations of error and injustice on 13 October 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. In correspondence attached as enclosure (2), 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 recommend changing his commander date of rank (and by implication, effective date) to 1 December 1997.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), 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 December 1997; 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.

W. Dean Pfeiffer
W. DEAN PFEIFFER
Executive Director



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

5420
PERS-85
14 Sep 00

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: CDR [REDACTED] MC, USN [REDACTED]

Encl: (1) BCNR File

1. Enclosure (1) is returned recommending approval of [REDACTED] request to backdate his date of rank.
2. C [REDACTED] was selected to Commander by the FY-98 Active Duty Commander Staff Promotion Selection Board. His promotion was delayed by the Secretary of the Navy and subsequently cleared and confirmed by the Senate. [REDACTED] should have received a date of rank to Commander of 1 December 1997 based on his seniority within the promotion zone and the FY-98 slating plan, not 30 April 1998.
3. Recommend that [REDACTED]'s date of rank be backdated to 1 December 1997.

[REDACTED]

BCNR Liaison, Officer Promotions
and Enlisted Advancements Division