



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

HD:hd
Docket No: 00977-02
14 May 2002

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

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

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

Encl: (1) DD Form 149 dtd 8 Nov 01 w/attachments
(2) PERS-80 memo dtd 12 Apr 02
(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 lieutenant he would have been assigned had he been selected for promotion to that grade by the Fiscal Year (FY) 01 Line Lieutenant Selection Board, vice the FY 02 Line Lieutenant Selection Board. He originally specifically requested a date of rank and effective date of 1 July 2001, but verbally amended his request to 1 August 2001. His current date of rank and effective date are 1 October 2001.

2. The Board, consisting of Meses. Davies and Gilbert and Mr. Kastner, reviewed Petitioner's allegations of error and injustice on 9 May 2002, 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 lieutenant date of rank (and by implication, effective date) to 1 August 2001. They conclude he was improperly deferred from consideration by the FY 01 Line Lieutenant Selection Board, citing title 10, United States Code, section 14301. This authority is inapplicable, as it

relates to deferment from a reserve promotion board, whereas Petitioner was deferred from an active duty promotion board. However, the conclusion that he was improperly deferred was correct: the general Navy policy to defer officers eligible for a promotion board within a year of placement on the active-duty list, absent an express request from the officer that the officer not be deferred, did not apply in the case of lieutenant promotion boards.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting adjustment of Petitioner's lieutenant date of rank and effective date to 1 August 2001. In this regard, they conclude he was improperly deferred from consideration by the FY 01 Line Lieutenant Selection Board. Accordingly, the Board directs 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 lieutenant 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
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.


For W. DEAN PFEIFFER
Executive Director

0777-02



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

5420
PERS-80
12 APR 2002

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
[REDACTED] USN, [REDACTED]

Encl: (1) BCNR File 00977-02

1. We are returning enclosure (1) recommending approval of
Lieutenant [REDACTED]'s request to have his date of rank adjusted to
1 August 2001.

2. Lieutenant [REDACTED] date of rank for Lieutenant Junior Grade
is 20 July 1999, therefore, his date of rank had he gone before
the FY-01 board would be 1 August 2001. According to his oath
of office, he is an inter-service transfer. Under Title 10, US
Code §14301 officers with continuous service are not required to
be deferred for one year prior to consideration by a promotion
selection board. Accordingly, Lieutenant [REDACTED] should not have
been deferred to the FY-02 Lieutenant board. It is in our
opinion that Lieutenant [REDACTED] date of rank for Lieutenant
should be adjusted to 1 August 2001.

[REDACTED]

Deputy Director, Active and
Reserve Officer Career
Progression Division