



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

BJG  
Docket No: 1252-02  
23 January 2003

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

Subj: LTCOL [REDACTED] USMC [REDACTED]  
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 13 Feb 02 w/attachment  
(2) HQMC MMOA-4 memo dtd 14 Jun 02  
(3) Memo for record dtd 3 Jan 03  
(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 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 for promotion to that grade by the Fiscal Year (FY) 2002 Lieutenant Colonel Selection Board, vice the FY 2003 Lieutenant Colonel Selection Board. By implication, he also requested removal of his failure of selection by the FY 2002 Lieutenant Colonel Selection Board.

2. The Board, consisting of Messrs. Caron, Harrison and Swarens, reviewed Petitioner's allegations of error and injustice on 16 January 2003, 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. Petitioner had a prior case, docket number 6319-98, before this Board. Pursuant to the Board's recommendation, on 11 October 2000, the Assistant Secretary of the Navy (Manpower and Reserve Affairs) directed that his naval record be corrected by modifying a fitness report. The FY 2002 Lieutenant Colonel Selection Board, before which he failed, convened on the same date and considered his uncorrected record. The correction was not effected until 13 October 2000. Petitioner was then selected above the promotion zone by the

FY 2003 Lieutenant Colonel Selection Board, and he was promoted with a date of rank and effective date of 1 March 2002.

c. In correspondence attached as enclosure (2), the Headquarters Marine Corps (HQMC) Officer Career Counseling and Evaluation Section, Personnel Management Division (MMOA-4) has commented to the effect that Petitioner's request to backdate his lieutenant colonel date of rank and effective date has merit and warrants favorable action. This advisory opinion specifically recommended adjusting his lieutenant colonel date of rank and effective date to 1 June 2001, the date he would have been assigned if he had been promoted pursuant to selection by the FY 2002 Lieutenant Colonel Selection Board.

d. The memorandum for the record at enclosure (3) documents that a member of the Board's staff contacted HQMC MMOA-4, and was informed that they feel Petitioner's implied request to remove his failure of selection by the FY 2002 Lieutenant Colonel Selection Board has merit and warrants favorable action.

#### 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 to show that he did not fail of selection by the FY 2002 Lieutenant Colonel Selection Board.


b. That Petitioner's naval record be further corrected, where appropriate, to show his date of rank and effective date in the grade of lieutenant colonel as 1 June 2001, vice 1 March 2002; 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.

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

125202



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

IN REPLY REFER TO:  
1600  
MMAA-4  
14 June 02

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

Subj: BCNR PETITION FOR MAJOR <sup>LTCOL RB</sup> [REDACTED]  
[REDACTED] USMC

Ref: (a) BCNR Request for Advisory Opinion in the case  
of Major <sup>LTCOL RB</sup> [REDACTED] USMC  
of 31 May 02

1. Recommend approval of Major <sup>LTCOL RB</sup> [REDACTED]'s request for back-  
dating of his date of rank.

2. Per the reference, we reviewed Major <sup>LTCOL RB</sup> [REDACTED]'s record  
and petition. <sup>LTCOL RB</sup> Major [REDACTED] failed selection on the FY02  
USMC Lieutenant Colonel Selection Board. He was  
subsequently selected for promotion on the FY03 Lieutenant  
Colonel Selection Board. On 11 October 2000, the Board for  
Correction of Naval Records authorized <sup>modification</sup> removal of the <sup>RB</sup>  
Change of Duty fitness report of 941101 to 950602. Because  
the FY02 Lieutenant Colonel Selection board convened on ~~10~~ <sup>11</sup> <sup>RB</sup>  
October 2000, the petitioned report was included in the  
record that appeared before the FY02 Lieutenant Colonel  
Selection board. <sup>LTCOL RB</sup> Major [REDACTED] requests back-dating of his  
date of rank to reflect selection on the FY02 board.

3. In our opinion, the petitioned report contained serious  
competitive concerns that may have resulted in the failure  
of selection. Since the petitioned report likely resulted  
in <sup>LTCOL RB</sup> Major [REDACTED] failure of selection on the FY02  
Lieutenant Colonel Selection Board, we recommend approval  
of his request for back-dating of his date of rank to 1  
June 2001. This date was verified by Jane Ritchie of MMPR.

4. Point of contact is <sup>LTCOL RB</sup> [REDACTED]. (703) [REDACTED].

[REDACTED]  
[REDACTED]  
Lieutenant Colonel, USMC  
Head, Officer Counseling and  
Evaluation Section  
Officer Assignment Branch  
Personnel Management Division

and the contested  
fit rep was not  
modified until  
13 Oct 2000,

DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)  
PERFORMANCE SECTION  
2 NAVY ANNEX, SUITE 2432  
WASHINGTON, DC 20370-5100  
TELEPHONE: (703) 614-2293 OR DSN 224-2293  
FACSIMILE: (703) 614-9857 OR DSN 224-9857

MEMORANDUM FOR THE RECORD

DATE: 3JAN03

DOCKET NO: 1252-02

PETITIONER (PET): LTCOL [REDACTED] USMC

PARTY I CALLED: LTCOL [REDACTED] USMC, HQMC MMOA-4

TEL # [REDACTED]

WHAT I SAID: I ASKED COL [REDACTED] HE WOULD SPT PET'S IMPLIED REQUEST TO REMOVE HIS FOS BY THE FY-02 USMC LTCOL SEL BD.

WHAT PARTY SAID: [REDACTED] ANSWERED IN THE AFFIRMATIVE, BASED ON PET BEING SELECTED ABOVE ZONE BY THE FY-03 LTCOL SEL BD AFTER AN ADVERSE FITREP WAS REMOVED.



BRIAN J. GEORGE