



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

HD:hd
Docket No: 07873-01
31 January 2002

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

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

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

Encl: (1) DD Form 149 dtd 10 Oct 01 w/attachments
(2) PERS-86 memo dtd 19 Apr 01
(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 he been selected for promotion to that grade by the Fiscal Year (FY) 01 Naval Reserve Line Commander Selection Board, vice the FY 02 Naval Reserve Line Commander Selection Board. He specifically requested a date of rank and effective date of 1 October 2000.

2. The Board, consisting of Messrs. Chapman and Kim and Ms. Nofziger, reviewed Petitioner's allegations of error and injustice on 31 January 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. Enclosure (2) is an advisory opinion from PERS-86, the NPC office responsible for Naval Reserve officer promotions, in Petitioner's prior case (docket number 1115-01). They stated "If [Petitioner's] 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." This Board did approve his prior request to change his acceptance of oath date. He was selected by the FY 02 Naval Reserve Line Commander Selection Board and promoted to commander.

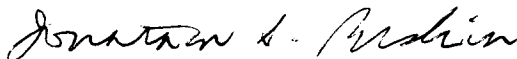
CONCLUSION:

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 October 2000; 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.


FR W. DEAN PFEIFFER
Executive Director



DEPARTMENT OF THE NAVY
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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], USN [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 [REDACTED] 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