



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

BJG
Docket No: 6558-06
29 September 2006

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 31 Mar 06 w/encls
(2) HQMC MMOA-4 memo dtd 31 Aug 06
(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 his naval record be corrected by removing his failure of selection by the Fiscal Year (FY) 2007 Major Selection Board, so as to be considered by the selection board that next convenes to consider officers of his category for promotion to the grade of major as an officer who has not failed to that grade. He further requested, in the event of his selection by the FY 2008 Major Selection Board, that he be assigned a date of rank reflecting selection by the FY 2007 Major Selection Board. The Board did not consider the last request, as it is premature before he has been promoted to major.

2. The Board, consisting of Ms. Humberd and Messrs. Grover and Pfeiffer, reviewed Petitioner's allegations of error and injustice on 28 September 2006, and pursuant to its regulations, determined that the limited corrective action indicated below should be taken of 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. Despite Petitioner's due diligence to ensure his record before the FY 2007 Major Selection Board would be correct and complete, it reflected a 30-day fitness report date gap and a joint combat fitness report that erroneously indicated it was a "normal peacetime" report.

c. In enclosure (2), the Headquarters Marine Corps Officer Counseling and Evaluation Section, Personnel Management Division has commented to the effect that Petitioner's request 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 enclosure (2), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

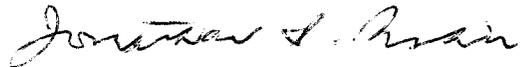
a. That Petitioner's naval record be corrected so that he will be considered by the earliest possible selection board convened to consider officers of his category for promotion to major as an officer who has not failed of selection for promotion to that grade.

b. 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.

c. 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