



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

BJG
Docket No: 4895-07
21 November 2008

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 9 May 07 w/attachments
(2) HQMC CMT memo dtd 27 Oct 08 w/encls

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting that his naval record be corrected by removing his failures of selection by the Fiscal Year (FY) 2005, 2006, 2007 and 2008 Reserve Lieutenant Colonel Selection Boards. He also impliedly requested setting aside action to effect his involuntary discharge from the Marine Corps Reserve on 1 January 2009 by reason of the failures of selection and his years of commissioned service.

2. The Board, consisting of Messrs. W. Hicks, Ivins and Swarens, reviewed allegations of error and injustice on 20 November 2008, and pursuant to its regulations, determined that relief should be granted. 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 which were available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (2), the Headquarters Marine Corps Career Management Team has commented to the effect that Petitioner's request has merit and warrants

favorable action, as he should have been placed on the Inactive Status List (ISL) on 16 September 2001, which would have made him ineligible for promotion consideration.

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 error and injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show he was transferred to the ISL on 16 September 2001.

b. That his record be corrected further by removing his failures of selection by the FY 2005, 2006, 2007 and 2008 Reserve Lieutenant Colonel Selection Boards.

c. That any discharge or other action based in any way on his failures of selection by the FY 2005, 2006, 2007 and 2008 Reserve Lieutenant Colonel Selection Boards be cancelled and, if necessary, that related documentation be removed from his record.

d. 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.

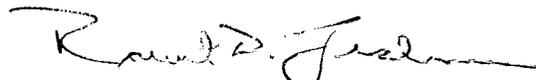
e. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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