



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

JSR
Docket No. 00989-08
7 February 2008

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 24 Sep 07 w/attachments
(2) HQMC MMER/PERB memos dtd 23 Jan 08 and undtd
(3) HQMC MMOA-4 memo dtd 23 Jan 08
(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 by modifying the fitness report for 20 August 2005 to 28 February 2006, a copy of which is at Tab A, in accordance with letters to the Fiscal Year (FY) 2009 Lieutenant Colonel Selection Board from the reporting senior and reviewing officer. As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed the following changes as Petitioner requested: raise the marks in sections D.2 ("Proficiency"), E.2 ("Effectiveness under Stress") and F.2 ("Developing Subordinates") from "D" (fourth best of seven possible marks) to "E" (third best) and section K.3 (reviewing officer's "Comparative Assessment") from the fifth best of eight possible marks to the fourth best. Petitioner further requested removing his failure of selection before the FY 2008 Lieutenant Colonel Selection Board, so as to be considered by the selection board that next convened to consider officers of his category for promotion to the grade of lieutenant colonel as an officer who has not failed of selection to that grade. After he had submitted his application, he also failed of selection by the FY 2009 Lieutenant Colonel Selection Board. It is presumed he requests removing that failure of selection as well.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 7

February 2008, 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 (3), the HQMC Officer Counseling and Evaluation Section has commented to the effect that the PERB action warrants removing Petitioner's FY 2008 and 2009 failures of selection.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (3), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

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

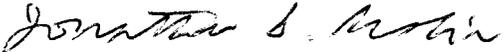
b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

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.

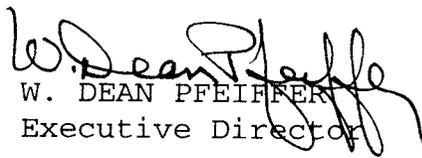
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and

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.


W. DEAN PFEIFFER
Executive Director