



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

JSR

Docket No: 4138-08

7 August 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 8 Apr 08 w/attachments
(2) Copy of Subject's fitness rept for
1 Aug 01 to 22 Apr 02
(3) HQMC MMPR memo dtd 29 May 08
(4) HQMC MMOA-4 memo dtd 21 Jul 08
(5) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, that his naval record be corrected to show the lineal position, date of rank, and effective date in the grade of major he would have been assigned had he been selected for promotion to that grade by the Fiscal Year (FY) 2008 Major Selection Board, vice the FY 2009 Major Selection Board. He also impliedly requested removing his failure of selection by the FY 2008 Major Selection Board.

2. The Board, consisting of Ms. Humberd and Messrs. Pfeiffer and Zsalman, reviewed Petitioner's allegations of error and injustice on 7 August 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 which were available under existing law and regulations within the Department of the Navy.

b. The FY 2008 Major Selection Board, by which Petitioner failed of selection in the promotion zone, convened on 11 October 2006. Pursuant to the direction of the Headquarters Marine Corps (HQMC) Performance Evaluation Review, an adverse fitness report (copy at enclosure (2)) was removed from his record on 27 August 2007. This report was out of his record when the FY 2009 Major Selection Board, which selected him above the zone, convened on 5 September 2007. He was promoted to major with a date of rank and effective date of 1 May 2008.

c. In correspondence at enclosure (3), the HQMC Officer Promotion Section advised that 1 July 2007 is the date of rank and effective date Petitioner would have been assigned, had he been promoted pursuant to selection by the FY 2008 Major Selection Board.

d. In correspondence at enclosure (4), the HQMC Officer Counseling and Evaluation commented to the effect that both Petitioner's express and implied requests have merit and warrant favorable action. They specifically recommended adjusting his major date of rank (and, by implication, effective date) to 1 July 2007, the date specified in enclosure (3).

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosures (3) and (4), the Board finds an injustice warranting the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing his failure of selection by the FY 2008 Major Selection Board.

b. That his naval record be corrected further to show his date of rank and effective date in the grade of major as 1 July 2007, vice 1 May 2008; 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 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

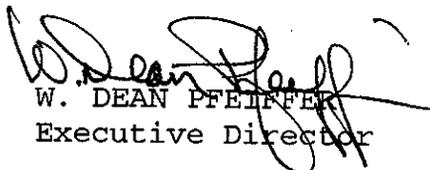
with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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 732.6(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