



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

JSR

Docket No: 4861-08

26 June 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 6 May 08 w/attachment
and Subject's e-mail dtd 25 Jun 08
(2) HQMC CMT memo dtd 16 Jun 08
(3) 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 by removing his failures of selection by the Fiscal Year 2007, 2008 and 2009 Reserve Lieutenant Colonel Selection Boards and his last four years in the Individual Ready Reserve (IRR) that had been counted as unsatisfactory. By his e-mail also at enclosure (1), he amended his application to request correcting his record to show he was on the Inactive Status List (ISL) from 6 Mar 03 to 1 October 2007 and removing his failures of selection to lieutenant colonel on the basis of that correction. He also dropped his previous request to remove his last four years in the IRR that had been counted as unsatisfactory.

2. The Board, consisting of Mses. Humphrey and Mann and Mr. J. Hicks, reviewed Petitioner's allegations of error and injustice on 26 June 2008, and pursuant to its regulations, determined that relief should be denied. 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 at enclosure (2), the Headquarters Marine Corps office with cognizance over the subject matter of Petitioner's case has commented to the effect his request has merit and warrants favorable action. They specifically recommended correcting his record to show ISL status from 6 March 2003 to 1 October 2007.

c. The FY 2007, 2008 and 2009 Reserve Lieutenant Colonel Selection Boards convened on 18 January 2006, 17 January 2007 and 23 January 2008, respectively.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosure (2), the Board finds an error and injustice warranting the full relief requested. The Board agrees with enclosure (2) in finding Petitioner should have been on the ISL from 6 March 2003 to 1 October 2007. Had he been on the ISL during that period, he would not have been eligible to be considered by any of the promotion boards by which he failed of selection: the FY 2007 and 2008 boards convened when he would have been on the ISL and, therefore, ineligible for consideration; and the FY 2009 board convened less than a year after the date he would have been removed from the ISL, so he would have remained ineligible. In view of the above, the Board directs the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show he was on the ISL from 6 March 2003 to 1 October 2007; and that his anniversary date be adjusted accordingly.

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

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.

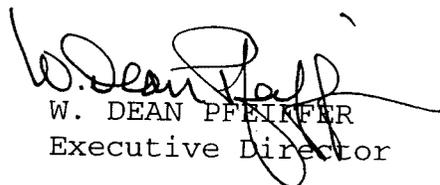
d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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