



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

BJG

Docket No: 6568-08

17 July 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 11 Mar 08 w/attachments
(2) HQMC MMER/PERB memo dtd 22 May 08
(3) HQMC MMOA-4 memo dtd 26 Jun 08
(4) Subj'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 that his naval record be corrected by removing the fitness report for 3 March to 31 May 2005 (copy at Tab A). As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board has directed this relief. He further requested removing his failure of selection by the Fiscal Year (FY) 2009 Lieutenant Colonel 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 lieutenant colonel as an officer who has not failed of selection to that grade. Finally, he requested consideration by a special selection board (SSB).

2. The Board, consisting of Messrs. W. Hicks, Spooner and Swarens, reviewed allegations of error and injustice on 17 July 2008, and pursuant to its regulations, determined that limited 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 (3), the HQMC Officer Counseling and Evaluation Section Management Division has commented to the effect that Petitioner's failure of selection to lieutenant colonel should be removed.

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 partial relief, specifically, removal of Petitioner's failure of selection for promotion.

The Board finds Petitioner's SSB request should be denied. In this regard, the Board notes that the FY 2010 Lieutenant Colonel Selection Board is imminent (scheduled to convene on 3 September 2008); and it finds Petitioner's consideration by the upcoming regular selection board, with a corrected fitness report record and status as not having failed of selection for promotion, will provide him adequate relief.

In view of the foregoing, the Board directs the following limited 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 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.

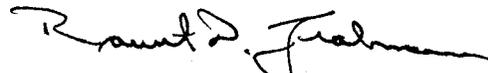
d. That the remainder of Petitioner's request be denied.

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