



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

BJG
Docket No: 1238-09
5 June 2009

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 Feb 09 w/attachment
(2) BCNR rept Docket No: 6201-08 dtd 3 Jul 08
less encls
(3) HQMC MMOA-4 memo dtd 24 Mar 09
(4) Memo for record dtd 3 Jun 09
(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, in effect, that the applicable naval record be corrected to show the lineal position, date of rank, and effective date in the grade of lieutenant colonel he would have been assigned had he been selected for promotion to that grade by the Fiscal Year (FY) 2007 Lieutenant Colonel Selection Board, vice the FY 2010 Lieutenant Colonel Selection Board. He specifically requested adjusting his lieutenant colonel date of rank and effective date to "approximately" January 2007.

2. The Board, consisting of Mses. Colbert, LeBlanc and Prevatt, reviewed allegations of error and injustice on 4 June 2009, 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 Petitioner's previous case, docket number 6201-08 (copy of Report of Proceedings at enclosure (2)), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board directed correcting his fitness report record as he had requested, and this Board directed removing his failures of selection by the FY 2007, 2008 and 2009 Lieutenant Colonel Selection Boards. He was selected by the FY 2010 Lieutenant Colonel Selection Board and promoted with a date of rank and effective date of 1 June 2009.

c. In enclosure (3), the HQMC Officer Counseling and Evaluation Section, Personnel Management Division has commented to the effect that Petitioner's current request has merit and warrants favorable action.

d. Enclosure (4) reflects that had Petitioner been promoted pursuant to selection by the FY 2007 Lieutenant Colonel Selection Board, he would have received a date of rank and effective date of 1 January 2007.

CONCLUSION:

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

RECOMMENDATION:

a. That Petitioner's naval record be corrected, where appropriate, to show his date of rank and effective date in the grade of lieutenant colonel as 1 January 2007, vice 1 June 2009; and that his lineal precedence be adjusted accordingly.

b. That any material or entries inconsistent with 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 his record.

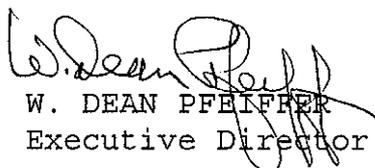
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's 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.



W. DEAN PFEIFFER
Executive Director