



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

JSR
Docket No. 05823-09
27 August 2009

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 1 Jun 09 w/attachments
(2) HQMC MMOA-4 memo dtd 21 Aug 09
(3) 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 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) 2009 Lieutenant Colonel Selection Board, vice the FY 2010 Lieutenant Colonel Selection Board. He also impliedly requested removing his failure of selection by the FY 2009 Lieutenant Colonel Selection Board. He currently has a lieutenant colonel date of rank and effective date of 1 June 2009.

2. The Board, consisting of Messrs. Lippolis, Sproul and Tew, reviewed Petitioner's allegations of error and injustice on 27 August 2009, 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 (2), the HQMC office with cognizance over the subject matter of this case has commented to the effect that Petitioner's request has merit and warrants favorable action, specifically, adjusting his lieutenant colonel date of rank and effective date to 1 May 2008 and removing his FY 2009 failure of selection (he also failed of selection by the FY 2008 Lieutenant Colonel Selection Board, but he does not contest that failure of selection).

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an 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 May 2008, rather than 1 June 2009; and that his lineal precedence be adjusted accordingly.

b. That his record be corrected further by removing his failure of selection by the FY 2009 Lieutenant Colonel Selection Board (leaving in his record his failure of selection by the FY 2008 Lieutenant Colonel Selection Board).

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 or material 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 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