



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

BJG
Docket No: 7625-09
30 July 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 3 Apr 09 w/attachment
(2) HQMC MMER/PERB memo dtd 29 Jun 09
(3) HQMC MMOA-4 memo dtd 20 Jul 09
(4) 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 that his naval record be corrected by modifying the fitness report for 1 June 2006 to 20 April 2007 by deleting, from section I (reporting senior's "Directed and Additional Comments"), "Capable officer that at times allowed the dynamic nature of operations to impact his overall efficiency and effectiveness. Produced quality products with supervision and undoubtedly maintains the necessary fundamental leadership skills for future promotion." and completely removing section K (reviewing officer's marks and comments). He further requested modifying the fitness report for 24 April 2007 to 24 April 2008 by removing section K. Copies of the fitness reports in question are at Tabs A and B, respectively. As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board has directed all the requested fitness report modifications. Finally, Petitioner requested removing his failure of selection by the Fiscal Year (FY) 2010 Major Selection Board, so that he will be considered by the selection board that next convenes to consider officers of his category for promotion to the grade of major as an officer who has not failed of selection to that grade.

2. The Board, consisting of [REDACTED] reviewed allegations of error and injustice on 30 July 2009, and pursuant to its regulations, determined that relief should be granted. Documentary material considered by the Board consisted of the enclosures (except enclosure (2)), 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 enclosure (3), the HQMC office with cognizance over the subject matter of Petitioner's request to remove his failure of selection for promotion has commented to the effect that request has merit and warrants favorable action.

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 the following 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 major 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.

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