



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

JSR  
Docket No. 1968-10  
2 April 2010

From: Chairman, Board for Correction of Naval Records  
To: Commandant of the Marine Corps

Subj: AMENDED RECOMMENDATION IN THE CASE OF EX-CWO2 [REDACTED]  
[REDACTED], USMCR, [REDACTED]

Encl: (1) Copy of BCNR ltr dtd 8 Mar 10 w/encl  
(BCNR rept dtd 4 Mar 10 less encls)

1. Enclosure (1) was forwarded for your action.
2. HQMC has advised that Subject was discharged on 1 November 2009 on the basis of failures of selection by the FY 2009 and 2010 CWO3 Selection Boards. The Board was not aware of his FY 2009 failure or his discharge.
3. In order to ensure proper implementation, the Board's report at enclosure (1) is hereby amended to read as follows:

Subject line: Change "CWO2" to "EX-CWO2."

Para 1. From the third sentence, beginning "He further requested removing his failure of selection before the Fiscal Year (FY) 2010 Reserve Chief Warrant Officer 3 (CWO3) Selection Board," delete the following: "so as to be considered by the selection board that next convened to consider officers of his category for promotion to the grade of CWO3 as an officer who has not failed of selection to that grade."

Para 1. Delete the last two sentences, which read as follows: "He was eligible for consideration by the FY 2011 Reserve CWO3 Selection Board, convened on 17 February 2010. In the event of his failure of selection by that promotion board, he will be subject to action to effect his removal from active status in the Marine Corps Reserve by reason of having twice failed of selection to CWO3." and replace these sentences with the following: "He also failed of selection

by the FY 2009 Reserve CWO3 Selection Board. He does not contest this failure. Because of the two failures of selection for promotion, he was discharged from the Marine Corps Reserve on 1 November 2009."

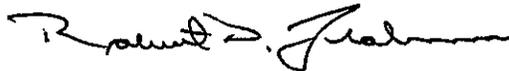
CONCLUSION: Delete the sentence "If he fails of selection by the FY 2011 promotion board, the Board finds that failure of selection should be removed as well, since it must be removed to restore the status Petitioner enjoyed before the FY 2010 promotion board as an officer who had not failed of selection for promotion."

RECOMMENDATION:

a. Revise to read as follows: "That Petitioner's naval record be corrected by removing his failure of selection by the FY 2010 Reserve CWO3 Selection Board, leaving in his record his failure of selection by the FY 2009 Reserve CWO3 Selection Board."

b. Revise to read as follows: "That his record be corrected further to show he was not discharged from the Marine Corps Reserve on 1 November 2009, but remained in an active status continuously after that date; and that he be reinstated to active status accordingly."

4. The regulations approved by the Secretary of the Navy require that the naval record of Subject be corrected, where appropriate, in accordance with the recommendation of the Board.

  
for W. DEAN PFEIFFER

Copy to:  
CWO2 Toole



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

JSR:kes  
Docket No. 01968-10  
8 March 2010

From: Chairman, Board for Correction of Naval Records  
To: Commandant, United States Marine Corps

Subj: CWO2 [REDACTED], USMCR, [REDACTED],  
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) Copy of report of proceedings of BCNR less  
enclosures

- 2114
1. In accordance with reference (a), the Board for Correction of Naval Records has reviewed allegations of error and injustice in Subject's naval record.
  2. The regulations approved by the Secretary of the Navy require that the naval record of Subject be changed, where appropriate, in accordance with the action of the Board.
  3. The Board has advised Subject of the final decision in this case.
  4. It is requested that this Board be furnished a copy of any correspondence relating to the enclosure; and that this letter and a copy of the enclosure be returned to the Board, together with any documentary material directed to be removed.

JONATHAN S. RUSKIN  
By direction



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

JSR  
Docket No. 1968-10  
4 March 2010

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: CWO2 [REDACTED], USMCR, [REDACTED];  
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 28 Jul 09 w/attachments  
(2) HQMC MMER/PERB memo dtd 13 Nov 09  
(2) HQMC CMT memo dtd 23 Feb 10  
(4) 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 that his naval record be corrected by removing the original fitness report for 11 August 2007 to 31 October 2008, a copy of which is at Tab A, and filing in its place the revised report for the same period, a copy of which is in enclosure (1). As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board has directed the requested correction of Petitioner's fitness report record. He further requested removing his failure of selection before the Fiscal Year (FY) 2010 Reserve Chief Warrant Officer 3 (CWO3) Selection Board, so as to be considered by the selection board that next convened to consider officers of his category for promotion to the grade of CWO3 as an officer who has not failed of selection to that grade. He was eligible for consideration by the FY 2011 Reserve CWO3 Selection Board, convened on 17 February 2010. In the event of his failure of selection by that promotion board, he will be subject to action to effect his removal from active status in the Marine Corps Reserve by reason of having twice failed of selection to CWO3.

2. The Board, consisting of Messrs. Blanchard, Clemmons and Rothlein, reviewed Petitioner's allegations of error and injustice on 4 March 2010, 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 enclosure (3), the HQMC office with cognizance over the subject matter concerned commented to the effect that the PERB action warranted removing Petitioner's failure of selection by the FY 2010 Reserve CWO3 Selection Board.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting full relief. The Board substantially concurs with enclosure (3) in finding Petitioner's failure of selection by the FY 2010 promotion board should be removed. If he fails of selection by the FY 2011 promotion board, the Board finds that failure of selection should be removed as well, since it must be removed to restore the status Petitioner enjoyed before the FY 2010 promotion board as an officer who had not failed of selection for promotion. In view of the above, the Board directs 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 CWO3 as an officer who has not failed of selection for promotion to that grade.

b. That any action to effect Petitioner's removal from active status in the Marine Corps Reserve that is based in any way on his failure of selection before the FY 2010 CWO3 Selection Board be cancelled and, if necessary, that related documentation be removed from his record.

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.

*Jonathan S. Ruskin*

JONATHAN S. RUSKIN  
Acting Recorder

ROBERT D. ZSALMAN  
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*

W. DEAN PFEIFFER  
Executive Director