



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

JSR
Docket No. 00391-12
24 February 2012

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

Subj: [REDACTED]

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

Encl: (1) Subject's DD Form 149 dtd 28 Dec 11 w/attachments
(2) HQMC MMSB-50 memo dtd 15 Feb 12
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), counsel for 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 Petitioner would have been assigned had he been selected for promotion to that grade by the Fiscal Year (FY) 2010 Lieutenant Colonel Selection Board, rather than the FY 2012 Lieutenant Colonel Selection Board.

2. The Board, consisting of Mses. Aldrich and Trucco and Mr. Whalen, reviewed Petitioner's allegations of error and injustice on 24 February 2012, 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 Petitioner's previous case, docket number 08493-10 (copy of Report of Proceedings at enclosure (1)), the Headquarters Marine Corps (HQMC) Performance Evaluation Review

Board directed modifying two of Petitioner's fitness reports, and this Board directed removing his failures of selection by the FY 2010 and 2011 Lieutenant Colonel Selection Boards. Subsequently, he was selected by the FY 2012 Lieutenant Colonel Selection Board and promoted with a date of rank and effective date of 1 December 2011.

c. 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 July 2010.

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 July 2010, rather than 1 December 2011; and that his lineal precedence be adjusted accordingly.

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