



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

JSR

Docket No. 8597-12

12 October 2012

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 11 Mar 12 w/attachments  
(2) HQMC MMER/PERB memo dtd 29 Aug 12  
(3) HQMC MMSB-50 memo dtd 7 Sep 12  
(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, in effect, that the applicable naval record be corrected by modifying the fitness report for 1 June 2008 to 29 May 2009 (copy at Tab A) by removing section K (reviewing officer's marks and comments). As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board has directed the requested modification. Petitioner further impliedly requested removing his failures of selection by the Fiscal Year (FY) 2012 and 2013 Colonel Selection Boards, so as to be considered by the selection board next convened to consider officers of his category for promotion to colonel as an officer who has not failed of selection for promotion to that grade. The FY 2014 Colonel Selection Board convened on 5 September 2012 and adjourned on 17 September 2012, but the results have not yet been released.

2. The Board, consisting of Ms. Aldrich and Messrs. Chapman and Genteman, reviewed Petitioner's allegations of error and injustice on 12 October 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 correspondence attached as enclosure (3), the HQMC office with cognizance over the subject matter of Petitioner's request to remove his failures of selection for promotion has commented to the effect that in light of the PERB action, this request has merit and warrants favorable action.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light 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 colonel 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.

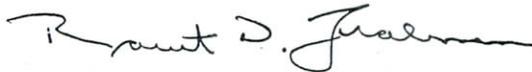
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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.



cc W. DEAN PFEIFFER  
Executive Director