



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

█
Docket No: 573-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █ █, USN, █

Ref: (a) Title 10 U.S.C. § 1552
(b) SECNAVINST 1421.3M

Encl: (1) DD Form 149 w/attachments
(2) CNPC memo of 4 May 22

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting his naval record be corrected by modifying his spot promotion date to start 29 April 2021.

2. The Board, consisting of █ and █, reviewed Petitioner's allegations of error and injustice on 9 June 2022 and, pursuant to its regulations, determined the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's 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, found as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

b. Petitioner was promoted to Lieutenant on 1 February 2019.

c. On 13 October 2020, Petitioner reported to █ █
█ as the Staff Material Officer, a billet designated as a Lieutenant Commander (LCDR) Spot Promotion billet.

d. Reference (b) governs temporary spot promotion of officers. By the date of the spot promotion selection board, eligible officers must have served two years in grade, computed from their dates of rank. Spot promotion selection boards are normally convened quarterly for O-4/Lieutenant Commander. The date of rank assigned will be the date the Senate confirms the initial spot appointment or the date the officer reports into a qualifying billet, whichever is later.

e. Petitioner emailed his spot promotion recommendation form for submission to the Fiscal Year (FY) 2021 Quarter 2 Spot/Special Board on 20 August 2020. During package verification in December 2020, the Navy Personnel Command (PERS 41) Spot Promotion/Special Assignment Coordinator notified Petitioner's detailer that Petitioner did not meet the requirements to be eligible for the FY 2021 Quarter 2 Spot/Special Board; the board was scheduled to convene 6 January 2021 and Petitioner attained two years date of rank on 1 February 2021.

f. The deadline for submission to the FY 2021 Quarter 3 Spot/Special Board was 2 April 2021 and, due to no fault of his own, Petitioner did not meet the deadline and was not considered by the FY 2021 Quarter 3 Spot/Special Board. The Senate confirmed the FY 2021 Quarter 3 Spot/Special Board selects on 30 September 2021.

g. Petitioner was selected for spot promotion to Lieutenant Commander by the FY 2021 Quarter 4 Spot/Special board and his selection was confirmed by the Senate on 14 December 2021. On 11 January 2022, Petitioner accepted his appointment to Lieutenant Commander.

h. Petitioner contends that if there had not been a lack of communication between the outgoing Spot Promotion Coordinator and the new one, he would have been spot promoted on 29 April 2021.

i. In an advisory opinion (AO) at enclosure (2), the CNPC recommended partially granting Petitioner's request to backdate his promotion. In accordance with reference (b), Petitioner was not eligible for the FY 2021 Quarter 2 Spot/Special Board because he had not attained two years' time-in-grade when the board convened. However, CNPC determined that, had PERS-41 submitted Petitioner's package in April 2021 to the FY 2021 Quarter 3 Spot/Special Board, Petitioner could have been selected and approved for payment for the rank of Lieutenant Commander from the Senate-approved list dated 30 September 2021.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board determined Petitioner's request warrants partial relief. The Board, relying on enclosure (2), concluded Petitioner's spot promotion starting pay date should be backdated to begin 30 September 2021, the date the FY 2021 Quarter 3 Spot/Special Board selects were confirmed by the Senate.

RECOMMENDATION

In view of the above, the Board directs the following corrective action.

Petitioner's naval record be corrected by backdating his Spot Promotion Lieutenant Commander date of rank to 30 September 2021 and awarding back pay and allowances.

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

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be added to the record in the future. This includes, but is not limited to, all information systems or database entries that reference or discuss the expunged material.

4. 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.

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.

7/1/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]