



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

█
Docket No: 2513-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █

Ref: (a) Title 10 U.S.C. § 1552
(b) SECNAVINST 1420.1

Encl: (1) DD Form 149 w/attachments
(2) DD 214
(3) NAVPERS 1000/4 of 25 Jan 21
(4) ALNAV 063/22
(5) NPC memo 1401 PERS-80/0227 of 12 Jul 22
(6) Email of 29 Sep 22

1. Pursuant to the provisions of the reference, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that Petitioner's naval record be corrected by removing his Fiscal Year (FY) 2022 failure of selection (FOS). Petitioner also request a FY 2022 Navy Reserve Lieutenant Commander (LCDR) Special Selection Board (SSB).

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 4 October 2022 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, 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, 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. On 1 August 2020, Petitioner was discharged from the U.S. Marine Corps due to non-selection for promotion to the next higher grade. See enclosure (2).

c. On 25 January 2021, Petitioner signed his, Naval Officer Appointment Acceptance and Oath of Office in the grade Lieutenant (LT), Navy Reserve. See enclosures (3).

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

d. On 24 May 2021, the FY 2022 Reserve Officer LCDR Line promotion board convened, Petitioner was not selected, and incurred his first failure of selection.

e. On 20 September 2022, ALNAV 063/22 announced the FY 2023 Navy Reserve LCDR Line Selections. Petitioner was selected for promotion to LCDR. See enclosure (4).

f. Petitioner contends that during his inter-service transition from Marine Corps active duty to Navy reserve, an administrative error prevented his record from transferring to his Navy official record despite additional personal attempts before the promotion selection board. Petitioner argued that during the FY 2022 promotion board his record was presented to the board without any documentation, to include his fitness reports, decorations or awards from his Marine Corps service.

g. In an advisory opinion (AO) furnished by PERS-801, the AO explained that only Petitioner's demographics, present duty stations, and select administrative forms were transitioned to his official record at the time of the FY 2022 promotion board. Petitioner's naval record was presented to the promotion selection board and he failed to select. The AO determined that the preponderance of evidence shows that the promotion selection board did not have essential material information before it for consideration and the available information was not substantially accurate or complete, and did not provide a fair portrayal of Petitioner's career. The AO also determined that Petitioner exercised reasonable diligence by maintaining his military record and the administrative transition process between services deprived him of fair and impartial consideration by the promotion board. The AO recommended deferment of promotion consideration from the FY 2022 promotion board and removal of the FOS. In an email from PERS-80, they acknowledged that a SSB is warranted. See enclosure (5) and (6).

CONCLUSION

Upon review and consideration of all the evidence of record, the Board found the existence of an error warranting corrective action. In making their finding, the Board concurred with enclosure (5).

Specifically, the Board noted that Petitioner's official record lacked material information when presented for consideration by the FY 2022 promotion selection board. The Board also noted that Petitioner attempted to correct his record before the FY 2022 promotion board convened to no avail. The Board opined that Petitioner's FY 2023 selection for promotion is evidence of his potential to have been selected for promotion during FY 2022. The Board determined that lack of material information constituted a material error in Petitioner's and he was not given fair consideration for promotion. In addition, Petitioner exercised due diligence to correct his record before the FY 2022 promotion board; however, through no fault of his own, his record was not properly updated after his transition from the Marine Corps to the Navy Reserves. Accordingly, the Board concluded that Petitioner's FOS should be removed from his record and he should be granted consideration for promotion to LCDR by the FY 2022 Navy Reserve LCDR Line SSB.

RECOMMENDATION

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Petitioner's naval record be corrected by removing his FY 2022 Reserve Officer LCDR Line promotion board failure of selection and convening a FY 2022 Navy Reserve LCDR Line SSB.

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.

10/12/2022

[REDACTED]

Executive Director

[REDACTED]