



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

[REDACTED]
Docket No. 7169-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN, XXX-XX-[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) Title 10 U.S.C. § 741

Encl: (1) DD Form 149 w/attachments
(2) Officer Appointment Acceptance and Oath of Office, 13 May 22
(3) Advisory Opinion by NPC PERS-80, 14 Dec 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 to remove his Fiscal Year (FY) 2023 failure of selection (FOS).
2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 10 January 2023 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. During 2019, Petitioner transferred from the U. S. Navy Reserve (USNR) Strategic Sealift Officer (SSO) community to the Navy Active Duty Surface Warfare Officer (SWO) community.
 - c. On 9 May 2022, Petitioner was considered for promotion by the FY 2023 Active Duty Navy Lieutenant Commander Line Promotion Selection Board (PSB) and was not selected.
 - d. On 13 May 22, Petitioner's Officer Appointment Acceptance and Oath of Office was updated by changing his date of rank to 1 October 2019. Enclosure (2).
 - e. In his application, Petitioner explained that during 2019 he transferred from the USNR to the active duty SWO community. He was promoted to Lieutenant (LT) in the USNR and was allowed to retain his rank. Petitioner contends that since reference (b) permits a one-time adjustment of an officer's date of rank when transitioning from the reserve to the active component his date of rank was changed from 1 June 2017 to 1 October 2019. Based on the change to his date of rank, he should not have been considered in-zone for promotion. Enclosure (1).

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f. In an advisory opinion (AO) provided by Navy Personnel Command (PERS-80), the AO concurred with Petitioner's request and recommended the removal of his FOS. The AO noted that Petitioner's promotion consideration as an in-zone officer was based on his original appointment to active-duty, with a 1 June 2017 date of rank and associated lineal number assignment of [REDACTED]. After the convening of the FY 2023 PSB, Petitioner was issued a corrected appointment changing his date of rank to 1 October 2019 in accordance with reference (b), which resulted in a new lineal number assignment of [REDACTED]. The AO determined that Petitioner is correct, the date of rank adjustment would have rendered him ineligible for promotion consideration by the FY 2023 PSB. As such, the AO concluded that Petitioner should not have incurred a FOS for promotion. Enclosure (3).

CONCLUSION

Upon careful review and consideration of all the evidence of record, the Board found the existence of an error warranting corrective action.

The Board substantially concurred with the AO that the change to Petitioner's date of rank from 1 June 2017 to 1 October 2019 rendered him ineligible for promotion consideration by the FY 2023 PSB. The Board determined that the FY 2023 FOS shall be removed.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing his failure of selection incurred during the FY 2023 Active Duty Navy Lieutenant Commander Line PSB.

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.

1/23/2023

[REDACTED]

Deputy Director

Signed by: [REDACTED]