



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

█
Docket No. 2076-23

Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █, USN, XXX-XX-█

Ref: (a) Title 10 U.S.C. § 1552

Encl: (1) DD Form 149 w/attachments
(2) NPC (PERS-8) Action Memo of 21 Oct 20
(3) BOI Report of 6 Aug 20
(4) NPC memo 1400 Ser 833/0591 of 14 Jul 23

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 his Lieutenant Junior Grade (LTJG/O-2) date of rank be changed to 1 October 2017 instead of 1 October 2018.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 17 August 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, found that, before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

a. An Action Memo submitted by the Navy Personnel Command (PERS-8) to Commander, Navy Personnel Command (CNPC) requested determination of Petitioner's qualification for promotion. The Action Memo noted that NPC received a report of misconduct that Petitioner was arrested on 22 September 2016, was charged with obtaining property by fraud, grand theft, and falsifying official documents while in a civilian capacity, and was released on bond. The Action Memo also noted on 23 September 2019, Petitioner pled not guilty and his case was dismissed on all charges. On 20 February 2020, the Show Cause Authority required Petitioner to show cause for retention before a Board of Inquiry (BOI). On 6 August 2020, the BOI unanimously found that the preponderance of evidence did not support a basis for separation. PERS-8 recommended that Petitioner be promoted. On 21 November 2020, the CNPC

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authorized Petitioner's promotion to LTJG with the permanent date of rank 1 October 2017. Enclosures (2) and (3).

b. In his application, Petitioner claims that his official date of commissioning to Ensign was 1 October 2015. He believes that when his file was sent to the Secretary of Defense for final approval, the incorrect date was applied. He also believes the CNPC's letter retroactively promoting him to LTJG on 1 October 2018 may have been because the file had an erroneous commissioning date of 1 October 2016. Enclosure (1).

c. The advisory opinion (AO) furnished by the NPC recommended that Petitioner's date of rank be changed to reflect his original date of rank of 1 October 2017. The AO noted that the CNPC reviewed the facts and circumstances regarding Petitioner's promotion and determined that he was qualified for promotion to LTJG. Moreover, the Action Memo supports the CNPC's decision to grant Petitioner his original date of rank of 1 October 2017 vice 1 October 2018. Enclosure (4).

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 Petitioner's date of rank for promotion to LTJG/O-2 warrants correcting. In this regard, the Board noted the circumstances leading to Petitioner's delayed promotion. The Board also noted that as the promotion authority for officers in the grade O-2, CNPC reviewed the facts and circumstances regarding Petitioner's promotion and determined that Petitioner was qualified for promotion and should retain his original date of rank. Accordingly, the Board determined that Petitioner's date of rank for promotion to LTJG/O-2 should be changed to 1 October 2017.

RECOMMENDATION

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

Petitioner's naval record be corrected by changing his date of rank for promotion to LTJG/O-2 to 1 October 2017.

That the Defense Finance and Accounting Service (DFAS) complete an audit of Petitioner's records to determine any pay, allowances, or benefits that Petitioner may be entitled to as a result of the changes to his naval record resulting from this record of proceedings.

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. 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

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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.

9/5/2023

