



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 3922-00
18 August 2000

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

Subj: CAPT [REDACTED] SMC [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 20 May 00 w/attachments
(2) HQMC MMOA-4 memo dtd 21 Jun 00
(3) HQMC MMPR memo dtd 7 Jul 00
(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 to show the lineal position, date of rank, and effective date in the grade of captain he would have been assigned had he been selected for promotion to that grade by the Fiscal Year (FY) 2000 Captain Selection Board, vice the FY 2001 Captain Selection Board. He specifically requested a date of rank and effective date of 1 May 2000.

2. The Board, consisting of Ms. Moidel and Schnittman and Mr. Bartlett, reviewed Petitioner's allegations of error and injustice on 17 August 2000, 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. Petitioner had a prior case (5826-99) before this Board. A copy of his decisional document is found at Tab A to enclosure (1). After he had failed by the FY 2000 Captain Selection Board, the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board directed the removal of a fitness report. His failure of selection was later stricken by this Board. He appeared before the FY 2001 Captain Selection Board with a corrected record and was selected for promotion. He was promoted to captain with a date of rank and effective date of 1 August 2000.

c. In correspondence attached as enclosure (2), the HQMC Officer Assignment Branch, Personnel Management Division (MMOA-4), the office with cognizance over the subject matter of this case, has commented to the effect that Petitioner's request has merit and warrants favorable action.

d. In correspondence attached as enclosure (3), at paragraph 2.e, the HQMC Promotion Branch (MMPR) has commented to the effect that had Petitioner been selected by the FY 2000 Captain Selection Board, he would have been assigned a date of rank and effective date of 1 May 2000. This advisory opinion recommended against backdating on the basis of what MMPR considered to be a lack of diligence on Petitioner's part in pursuing corrective action.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2) and paragraph 2.e of enclosure (3), the Board finds the existence of an injustice warranting the requested relief. They do not agree with the MMPR recommendation to deny Petitioner's request on the basis of lack of diligence. In view of the above, the Board directs the following corrective action.

RECOMMENDATION:


a. That Petitioner's naval record be corrected, where appropriate, to show his date of rank and effective date in the grade of captain as 1 May 2000; and that his lineal precedence be adjusted accordingly.

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.


W. DEAN PFEIFFER
Executive Director



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

2922-00

IN REPLY REFER TO:
1600
MMA-4
21 Jun 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
Captain [REDACTED]
of 21 Jun 00.
(b) MMA-4 Memorandum for the Executive Director, Board
for Correction of Naval Records of 10 Sep 99.

1. Recommend approval of Captain [REDACTED]'s request for
backdating his date of rank.
2. Per reference (a), we reviewed Captain [REDACTED] record and
petition. Captain [REDACTED] failed selection on the FY00 USMC
Captain Selection Board. Following his failure for selection, he
successfully petitioned the Performance Evaluation Review Board
(PERB) for removal of the Change of Reporting Senior fitness
report of 980405 to 980509. He was subsequently selected for
promotion on the FY01 USMC Captain Selection Board.
3. Normally, a single factor does not cause a failure of
selection. However, as is evident by his selection to Captain,
our opinion in reference (b), remains germane. Therefore, we
recommend approval of Captain [REDACTED] request for backdating
his date of rank.
4. POC [REDACTED]

[REDACTED]

Colonel, U. S. Marine Corps
Head, Officer Assignments Branch
Personnel Management Division



3922-00

DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
MANPOWER AND RESERVE AFFAIRS DEPARTMENT
HARRY LEE HALL, 17 LEJEUNE ROAD
QUANTICO, VIRGINIA 22134-5104

IN REPLY REFER TO:

1412/2

MMPR

JUL 27 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF FIRST LIEUTENANT
[REDACTED] USMC

Ref: (a) MMR Route Sheet of 21 Jun 00
(b) MCO P1610.7D
(c) MCO P1610.7E
(d) SecNavInst 1401.1B

1. Reference (a) requested an advisory opinion in the case of First Lieutenant [REDACTED]. First Lieutenant [REDACTED] is requesting the backdate of rank to the grade of captain as if he had been selected by the FY00 USMC Captain Promotion Selection Board.

2. The following facts are germane to this case:

a. First Lieutenant [REDACTED] was eligible, as an in zone officer, and not selected for promotion by the FY00 USMC Captain Promotion Selection Board.

b. First Lieutenant [REDACTED] petitioned the Board for Correction of Naval Records (BCNR) on 990517. BCNR recommended removal of the fitness report 980405 to 980509 and removal of his failure of selection from the FY00 USMC Captain Promotion Selection Board on 991012.

c. First Lieutenant [REDACTED] was eligible, as an in zone officer, and selected for promotion by the FY01 USMC Captain Promotion Selection Board. He is projected to be promoted to captain on 000801.

d. He did not petition BCNR to remove the fitness report until after he failed of selection, over a year after the end date of the report. He admitted that he was aware of the adverse nature of the report and the effects it could have on his future in the Marine Corps, but claims to not have known that he could request that it be removed. As an Adjutant, 0180 military occupational specialty, it is his responsibility to understand the processing of fitness reports. References (b)

Subj: BCNR APPLICATION IN THE CASE OF FIRST LIEUTENANT

[REDACTED] SMC

and (c) make it clear that an officer may appeal any report that he or she believes is incorrect, inaccurate, or in violation of the policies and instructions within these references.

d. Further, First Lieutenant [REDACTED] has at least four years prior enlisted experience, giving him at least seven years active duty time prior to being considered for promotion to captain on the FY00 board. The level of diligence displayed by First Lieutenant [REDACTED] is not congruent with his experience, regardless of his grade.

e. If he had been selected on the FY00 board, his date of rank would have been 000501.

f. Since First Lieutenant [REDACTED] is already selected for the grade of captain, he is not eligible for a special selection board per reference (d).

3. Based On the facts presented, Promotion Branch does not support a backdate of rank due to the officer's own inaction in regard to his own record and career.

4. The point of contact in this matter is Capt [REDACTED] at [REDACTED]

[REDACTED]

[REDACTED SIGNATURE]

Head, Officer Promotion Section