



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

HD:hd
Docket No: 00957-02
22 February 2002

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

Subj: LT [REDACTED], USNR, [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 2 Feb 02 w/attachments
(2) NPC Ser P80 undtd memo
and Subject's promotional history card
(3) Memo for the Record dtd 21 Feb 02

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 by removing only his failure of selection before the Fiscal Year (FY) 02 Naval Reserve Line Lieutenant Commander Selection Board, his second of two failures of selection to lieutenant commander. Because of the two failures of selection, he is scheduled to be involuntarily discharged from the Naval Reserve on 28 February 2002.

2. The Board, consisting of Messrs. Carlsen, Ensley and McBride, reviewed Petitioner's allegations of error and injustice on 22 February 2002, 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. In correspondence attached as enclosure (2), the Navy Personnel Command office having cognizance over Naval Reserve promotions has commented to the effect that Petitioner's request should be approved, as the FY 02 promotion board did not have material information reflecting that he had affiliated with a Naval Reserve unit, and this information "could have made a difference in whether or not he was selected."

c. The memorandum for the record at enclosure (3) documents Petitioner's statement to the effect that he did not take steps to ensure that the FY 02 promotion board would be aware of his affiliation with a Naval Reserve unit, as he did not know when the board would convene.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the requested relief. While they do feel Petitioner could have done better to ensure the promotion board would have complete and accurate information about his participation in the Naval Reserve, they find it is in the interest of justice to excuse this, so as to enable him to continue to serve. In view of the above, the Board directs the following corrective action:

RECOMMENDATION:

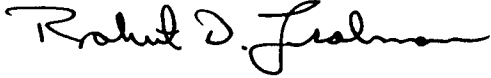
- a. That Petitioner's naval record be corrected to show he did not fail of selection by the FY 02 Naval Reserve Line Lieutenant Commander Selection Board.
- b. That any discharge or other action based in any way on Petitioner's failure of selection before the FY 02 Naval Reserve Line Lieutenant Commander Selection Board be cancelled and, if necessary, that related documentation be removed from his record.
- c. 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.
- d. 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
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.



For W. DEAN PFEIFFER
Executive Director



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

5420
Ser P80/

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATION IN CASE OF
[REDACTED] USNR, [REDACTED]

Encl: (1) BCNR File - w/Service Record

1. We are returning enclosure (1) with the following observations and the recommendation that [REDACTED] request to have his FY-02 Failure of Selection for Lieutenant Commander be removed and he be considered above-zone in the FY-03 Lieutenant Commander selection board.

2. [REDACTED] asserts that the cover page of his OSR / PSR was inaccurate as seen by the selection board. Specifically, his record indicated that he was not in a drilling reserve status but rather an Individual Ready Reserve status. His assertion is accurate. His cover page was incorrect. We concur that this error could have made a difference in whether or not he was selected since the board did not select to their allotted numbers. Additionally, it is our opinion that the caliber of his active duty record would have been sufficient to meet the standard for selection by the board.

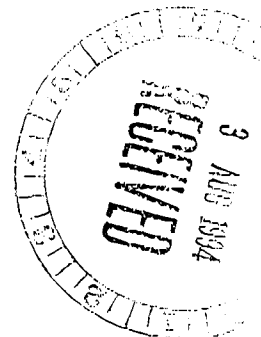
3. His request to be considered above-zone for the FY-03 board in lieu of a special board is reasonable. He is effectively trading his in-zone status with scant recent professional information in his record for the opportunity an above-zone look that allows him to present recent fitreps and any awards that he may have received prior to the board convening. PERS-80 has no objections to his request.

Subj: REQUEST FOR COMMENTS AND RECOMMENDATION IN CASE OF
[REDACTED] USNR, [REDACTED]

4. [REDACTED] request has a higher level of urgency for a timely resolution than most BCNR petitions. He will be demobilized on February 28th, 2002 if his case is still pending or not resolved in his favor. PERS-80, therefore requests consideration of his request and resolution prior to 15 February 2002, if possible.

[REDACTED]

By Direction



ORIGINAL PRECEDENCE DATE ()

RANK	PERM. TEMP. SPOT. DESIG. AD INT.	DATE OF RANK	EFFECTIVE DATE	DATE OF A & O ACK. REC.	AUTHORITY
ENS	P	[REDACTED]			12 Oct 90
LTJG	P	01 OCT 92	01 OCT 92		SECNAVINST.1412.6J
LT	P	1 OCT 1994	1 OCT 1994		[REDACTED]

ACDU	RAD	FOR PURPOSE OF SEPARATION OR CONTINUATION: TOTAL COMMISSIONED SERVICE DEEMED TO BE FROM 6-30	SELECTION BOARD DATA
	5-28-94	91	SELECTED FY-94 FAILED INACTIVE 02 FAILED INACTIVE 01
		437176	406360
			CLASS STD'G 100/177

BIRTH DATE	ORIG. A & O DATE	CURT. SOURCE	ORIG. SOURCE
[REDACTED]	[REDACTED]	050	050
			10 USC 593

NAME	DESIGN.	ACAD/YR.	SSN
[REDACTED]	1185	115	[REDACTED]

U.S. GOVERNMENT PRINTING OFFICE: 1980-289-740

21 February 2002

MEMO FOR RECORD

Re: Case [REDACTED]

Today [REDACTED] ed me that he did not check his OSR/PSR before his consideration by the FY 02 Naval Reserve Line LCDR Sel Bd, nor did he communicate with the board to inform them of his recent affiliation with a unit. He explained this by stating that while he was aware he had previously been considered and passed over for promotion, he did not know when his next promotion board would convene. He said he did not learn of his second consideration until he got the letter from NPC informing him that he was to be discharged from the Naval Reserve by reason of having twice failed of selection.

Jonathan S. Ruskin

JONATHAN S. RUSKIN
Head, Performance Section