



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

BJG
Docket No: 10410-09
12 February 2010

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) Subject's e-mail dtd 28 Sep 09
(2) BJG Docket No: 6885-07 dtd 16 Aug 07 less encls
(3) BJG Docket No: 6568-08 dtd 17 Jul 08 less encls
(4) HQMC MMPR memo dtd 28 Oct 09
(5) HQMC MMOA-4 memo dtd 25 Nov 09
(6) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board, in effect, that the applicable naval record be corrected to show the lineal position, date of rank, and effective date in the grade of lieutenant colonel he would have been assigned had he been selected for promotion to that grade by the Fiscal Year (FY) 2008 Lieutenant Colonel Selection Board, vice the FY 2010 Lieutenant Colonel Selection Board.

2. The Board, consisting of [REDACTED], reviewed allegations of error and injustice on 4 February 2010, and pursuant to its regulations, determined that relief should be granted. 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 which were available under existing law and regulations within the Department of the Navy.

b. Enclosure (2) reflects that this Board directed removing Petitioner's failure of selection by the FY 2008 Lieutenant Colonel Selection Board on the basis of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) action to modify one of his fitness reports. Enclosure (3) shows this Board directed removing his failure of selection by the FY 2009 Lieutenant Colonel Selection Board on the basis of the HQMC PERB action to remove another one of his fitness reports. He was then selected by the FY 2010 Lieutenant Colonel Selection Board and promoted with a date of rank and effective date of 1 June 2009.

c. In enclosure (4), the HQMC Officer Promotions Section advised that 1 July 2007 is the date of rank and effective date Petitioner would have been assigned, had he been promoted pursuant to selection by the FY 2008 Lieutenant Colonel Selection Board.

d. In enclosure (5), the HQMC Officer Counseling and Evaluation Section, Personnel Management Division commented to the effect that Petitioner's request has merit and warrants favorable action. That office specifically recommended adjusting his lieutenant colonel date of rank and effective date to 1 July 2007.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (4) and (5), the Board finds the existence of an error and injustice warranting 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 lieutenant colonel as 1 July 2007, vice 1 June 2009; and that his lineal precedence be adjusted accordingly.


b. That any material or entries inconsistent with 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 his 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.


for W. DEAN PFEIFFER
Executive Director