



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

JSR
Docket No. 6730-11
4 August 2011

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

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 19 Apr 11 w/attachments
and Subject's ltr dtd 28 Jun 11 w/enclosures
(2) HQMC MMR/PERB memo dtd 29 Jul 11
(3) HQMC MMOA-4 memo dtd 1 Aug 11
(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 by removing the original fitness reports for 26 May 2009 to 30 April 2010 and 1 May to 30 August 2010, copies of which are at Tabs A and B, respectively, and entering in their place the revised reports for 26 May 2009 to 30 April 2010 and 1 May to 1 September 2010, in enclosure (1). As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board has directed the requested correction of Petitioner's fitness report record. Petitioner further requested removing his failure of selection by the Fiscal Year (FY) 2011 Chief Warrant Officer 3 (CWO3) Selection Board, so as to be considered by the selection board next convened to consider officers of his category for promotion to CWO3 as an officer who has not failed of selection for promotion to that grade. Finally, he requested special selection board (SSB) consideration for the FY 2011 CWO3 Selection Board.

2. The Board, consisting of Ms. Trucco and Messrs. Grover and McBride, reviewed Petitioner's allegations of error and injustice on 4 August 2011, 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 (3), the HQMC office with cognizance over the subject matter of Petitioner's request to remove his failure of selection for promotion has commented to the effect that this request has merit and warrants favorable action.

c. The FY 2012 CWO3 Selection Board is scheduled to convene on 9 August 2011.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosure (3), the Board finds the existence of an injustice warranting partial relief, specifically, removal of Petitioner's failure of selection for promotion. Since the FY 2012 promotion board will convene imminently, and the Board is satisfied that Petitioner's consideration by the regular promotion board with a corrected record and status as not having failed of selection will provide him adequate relief, the Board finds that Petitioner's SSB request should be denied. In view of the above, the Board directs the following limited corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected so that he will be considered by the earliest possible selection board convened to consider officers of his category for promotion to CWO3 as an officer who has not failed of selection for promotion to that grade.

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.

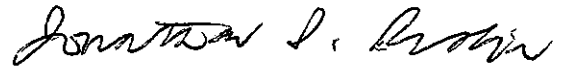
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a

confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

d. That the remainder of Petitioner's request be denied.

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.

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