



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

HD:hd
Docket No. 06256-10
15 October 2010

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 8 Jun 10 w/attachments
(2) BCNR Rept of Proceedings, Docket No. 02822-09
dtd 5 Jun 09 less enclosures
(3) PERS-80 memo dtd 25 Jul 10

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 commander he would have been assigned had he been selected for promotion to that grade by the Fiscal Year (FY) 10 Line Commander Selection Board, vice the FY 11 Line Commander Selection Board. He also impliedly requested removing his failure of selection by the FY 10 Line Commander Selection Board.

2. The Board, consisting of Messrs. Butherus, Garst and Sproul, reviewed Petitioner's allegations of error and injustice on 14 October 2010, 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 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. Enclosure (2) shows that in Petitioner's prior case, this Board directed removing a fitness report from his record on 29 May 2009. He was considered by the FY 10 Line Commander Selection Board,

convened on 10 February 2009, with an uncorrected record and he failed of selection. After his record had been corrected, he was considered and selected by the FY 11 Line Commander Selection Board, and he was promoted with a date of rank and effective date of 1 October 2010.

c. In enclosure (3), the Navy Personnel Command office with cognizance over the subject matter of Petitioner's request commented to the effect the request has merit and warrants favorable action, specifically recommending that his commander date of rank (and by implication, effective date) be adjusted to 1 April 2010.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (3), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected, where appropriate, by removing his failure of selection by the FY 10 Line Commander Selection Board.

b. That his record be corrected further to show his date of rank and effective date in the grade of commander as 1 April 2010, rather than 1 October 2010; and that his lineal precedence be adjusted accordingly.


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.

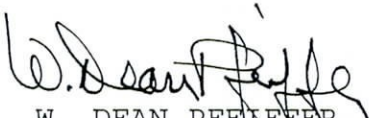
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the

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
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