



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

BJG  
Docket No: 5325-03  
3 September 2003

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

Subj: [REDACTED], USN [REDACTED]  
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 6 Jun 03 w/attachment  
(2) BCNR rept to SECNAV, docket no: 7503-02,  
dtd 29 Aug 02 less encls  
(2) HQMC MMOA-4 memo dtd 18 Aug 03  
(3) 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 major he would have been assigned had he been selected for promotion to that grade by the Fiscal Year (FY) 2003 Major Selection Board, vice the FY 2004 Major Selection Board.

2. The Board, consisting of Messrs. Adams, Geisler and Zsalman, reviewed Petitioner's allegations of error and injustice on 28 August 2003, 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 Petitioner's prior case (copy of report of proceedings at enclosure (2)), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board directed substitution of a fitness report, and this Board approved removing his failure of selection by the FY 2003 Major Selection Board. He was selected by the FY 2004 Major Selection Board, and he was promoted with a 1 March 2003 date of rank and effective date.

c. In correspondence attached as enclosure (3), the HQMC 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. This advisory opinion specifically recommended the adjustment of his date of rank and effective date to 1 May 2002. They determined that this is the date of rank and effective date he would have received, had he been promoted pursuant to selection by the FY 2003 Major Selection Board.

**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, to show his date of rank and effective date in the grade of major as 1 May 2002, vice 1 March 2003; 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.

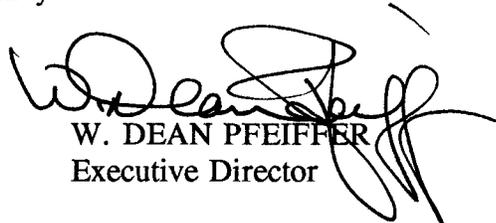
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

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

IN REPLY REFER TO:

1600  
MMAA-4  
18 Aug 03

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

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

Ref: (a) BCNR Request for Advisory Opinion in the case of  
Major [REDACTED] 586 USMC  
8 Aug 02

1. Recommend approval of [REDACTED]'s request for back-dating of his date of rank and backpay.

2. Per the reference, we reviewed [REDACTED]'s record and petition. [REDACTED] failed selection on the FY03 USMC Major Selection Board. He successfully petitioned the Performance Evaluation Review Board (PERB) to submit a new Change of Reporting Senior report dated 20010616 to 20010831 and have the existing report of the same date removed from his OMPF. [REDACTED] was subsequently selected for promotion from the In-Zone on the FY04 USMC Major Selection Board. Major [REDACTED] requests back-dating of his date of rank and backpay.

3. In our opinion, the petitioned fitness report contained competitive concerns that may have resulted in the failure of selection. Since the removed report may have contributed to Major [REDACTED] failure of selection, and following the replacement he was selected for promotion to Major, we recommend approval of his request for back-dating of his date of rank to 1 May 2002 and backpay. This date was verified by [REDACTED] MMPR.

4. POC is [REDACTED]

[REDACTED]

Lieutenant Colonel, USMC  
Head, Officer Counseling &  
Evaluation Section  
Officer Assignment Branch  
Personnel Management Division