



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

HD:hd  
Docket No: 05078-99  
19 November 1999

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

Subj: EX-LT [REDACTED] MSC, USN, [REDACTED]  
REVIEW OF NAVAL RECORD (PARTIAL RECONSIDERATION)

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

Encl: (1) DD Form 149 dtd 3 Aug 99 w/attachments  
(2) PERS-85 memo dtd 7 Oct 99  
(3) PERS-4415J memo dtd 26 Oct 99  
(4) Subject's naval record

1. Pursuant to reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting that his naval record be corrected by removing his failures of selection by the Fiscal Year (FY) 97 and 98 Medical Service Corps (MSC) Lieutenant Commander Selection Boards; setting aside his discharge from the Regular Navy on 1 April 1998 by reason of the failures of selection, so that his record will reflect no break in service; and reinstating him to the MSC of the Regular Navy in the grade of lieutenant commander, with a date of rank and effective date of 1 June 1997. On 23 October 1997, the Board denied his prior request, docket number 4509-97, to remove his failures and set aside his discharge.

2. The Board, consisting of Messrs. Ensley, Morgan and Pfeiffer, reviewed Petitioner's allegations of error and injustice on 12 November 1999, 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. Petitioner was discharged on 1 April 1998 by reason of his two failures of selection for promotion to lieutenant commander. He had requested a special promotion selection board in October 1996, following his first failure of selection. On 12 December 1997, this request was approved. The special selection board convened on 25 February 1998, while he was still on active duty. He was selected for promotion, but the results were not released

until 10 June 1998, after he had been discharged on 1 April 1998, and his confirmation by the Senate did not take place until one year later.

c. In correspondence attached as enclosure (2), the Naval Personnel Command (NPC) office having cognizance over active duty promotion matters has commented to the effect that Petitioner's request has merit and warrants full approval. They acknowledged that 1 June 1997 is the lieutenant commander date of rank he would have received, had he not left active duty.

d. In correspondence attached as enclosure (3), the NPC office having cognizance over MSC detailing has commented to the effect they agree that Petitioner's request should be approved.

**CONCLUSION:**

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (2) and (3), the Board finds the existence of an injustice warranting the following corrective action:

**RECOMMENDATION:**

a. That Petitioner's naval record be corrected to show that he did not fail of selection by the FY 97 and 98 MSC Lieutenant Commander Selection Boards.

b. That his record be corrected further to show that he was not discharged on 1 April 1998, but served continuously after that date; and that he be reinstated to active duty in the MSC of the Regular Navy.

c. That Petitioner be reinstated to active duty in the grade of lieutenant commander, by authority of 10 U.S.C. 628, with a date of rank and effective date of 1 June 1997; and that his lineal precedence be established accordingly.

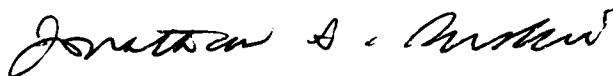
d. That there be inserted in Petitioner's naval record, at an appropriate location, a memorandum containing relevant identifying data and including the following language:

Subject officer was discharged from the Navy effective 1 April 1998. Subsequently, this discharge was voided by order of the Secretary of the Navy. Since subject officer was discharged by reason of error and through no fault of his own, and since this discharge has now been voided, it is directed that he not be penalized in any way by reason of his inability to serve while the discharge was in effect.

e. 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.

f. 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.

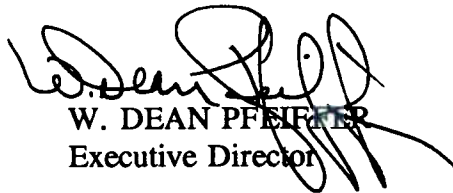
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.



JONATHAN S. RUSKIN  
Acting Recorder

ROBERT D. ZSALMAN  
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

5078-99



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

5420  
Ser 85/214  
7 Oct 99

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: LT [REDACTED], MSC, USN, [REDACTED]

Ref: (a) NPC ltr 1426 Ser 85/140 of 14 Jul 99

Encl: (1) BCNR File

1. Per ref (a), enclosure (1) is returned recommending approval of [REDACTED]'s request for failure of selection removal and reinstatement to active duty with a 1 June 1997 date of rank to Lieutenant Commander.



BCNR Liaison, Officer Promotions  
and Enlisted Advancements Division



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

5420  
Pers-4415J  
26 Oct 99

MEMORANDUM FOR BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)

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

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE OF  
LIEUTENANT [REDACTED] N, MSC, USN [REDACTED]

Ref: (a) BCNR memo of 14 Oct 99

Encl: (1) BCNR File

1. Per reference (a), enclosure (1) is returned recommending approval of [REDACTED]'s request for failure of selection removal and reinstatement to active duty with a 01 June 1997 date of rank to Lieutenant Commander. In addition to the review of enclosure (1), I also consulted several senior Navy pharmacists who both positively endorsed the performance of [REDACTED] as a Navy pharmacist.

2. If you have any questions, please call me at [REDACTED]

[REDACTED]  
Senior Medical Service Corps HCS Detailer  
[REDACTED]