



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

HD:hd
Docket No: 00666-01
15 June 2001

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

Subj: LCDR [REDACTED], MSC, USNR, [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 20 Jan 01 w/attachments
(2) Memo for Record dtd 5 Jun 01
(3) Pers 85 memo dtd 14 Mar 01
(4) Memo for Record dtd 6 Jun 01
(5) 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 changing her date of rank and effective date in the grade of lieutenant commander to reflect selection by the Fiscal Year (FY) 97 Active Duty Staff Lieutenant Commander Selection Board, and that her lineal precedence be adjusted accordingly. The memorandum for the record at enclosure (2) shows she amended her application to request that her date of rank and effective date in the grade of lieutenant commander be adjusted to reflect selection by the FY 98 Active Duty Staff Lieutenant Commander Selection Board. Her current date of rank and effective date is 1 October 1998.

2. The Board, consisting of Messrs. Kastner, Swarens and Whitener, reviewed Petitioner's allegations of error and injustice on 7 June 2001, 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), PERS-85, the Navy Personnel Command (NPC) office with cognizance over the subject matter of this case, has commented to the effect that Petitioner's amended request has merit and warrants favorable action.

c. The memorandum for the record at enclosure (4) shows PERS-85 advised that Petitioner would have received a date of rank and effective date of 1 December 1997, had she been promoted pursuant to selection by the FY 98 Active Duty Staff Lieutenant Commander Selection Board.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (3) and (4), 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 her date of rank and effective date in the grade of lieutenant commander as 1 December 1997 vice 1 October 1998; and that her 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.

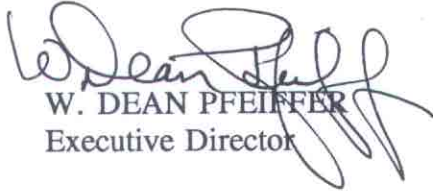
c. That a copy of this Report of Proceedings be filed at an appropriate location in Petitioner's naval record, and that another copy of this report be returned to this Board, together with any material directed to be removed from Petitioner's record, for retention in a confidential file maintained for such purpose.

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

HD:hd
Docket No: 00666-01
5 June 2001

MEMORANDUM FOR THE RECORD

Subj: LCDR [REDACTED], USNR, [REDACTED]

1. This memorandum for the record is to document a phone conversation between subject officer and this staff member.
2. SNO agreed to the recommendation in the advisory opinion provided by PERS-85 in which they recommend a backdate to FY-98.
3. SNO indicated that this would help her in the long run because if given the earlier date of rank (FY-97) she would not have enough fitness reports in the record and would probably fail to select for commander when coming up in the next selection board for the rank.

[REDACTED]



DEPARTMENT OF THE NAVY

BUREAU OF NAVAL PERSONNEL

5720 INTEGRITY DRIVE

MILLINGTON TN 38055-0000

5420
Pers 85
14 Mar 01

MEMORANDUM FOR BCNR

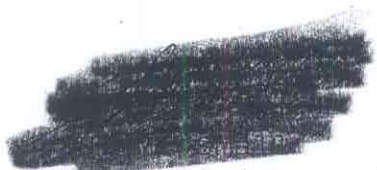
Via: BUPERS/BCNR Coordinator

Subj: LCDR [REDACTED], USNR, [REDACTED]

Ref: (a) Pers-85 memo of 19 Jun 00

Encl: (1) BCNR File

1. Enclosure (1) is returned, recommending disapproval of LCDR [REDACTED] request for a FY-97 backdate for the rank of Lieutenant Commander.
2. LCDR [REDACTED] suggests an entitlement to a FY-97 Lieutenant Commander date of rank by improperly citing 10 USC Sec. 611. Special selection boards are governed by 10 USC Sec. 628, which allows a special selection board to consider for promotion officers who either were not considered by a promotion selection board as a result of error, or who were considered, but due to administrative or material error did not receive lawful or proper consideration.
3. LCDR [REDACTED] was approved by SECNAV for both a FY-97 and FY-98 Active Duty Lieutenant Commander Staff Special Selection Board. After failing to select on the FY-97 board, held on 26 May 00, it was discovered that she had been selected as a Lieutenant Commander on the FY-99 0-4 Reserve Staff board. BCNR was notified through ref (a) that the FY-98 special selection board was not required. Because LCDR [REDACTED] failed to select during the FY-97 board, it is not possible to grant her a FY-97 date of rank, yet based on her corrected record and the granting of the special board, it is reasonable to consider the member's promotion to Lieutenant Commander was possible during FY-98.
4. Recommend disapproval of the request for a backdate to the rank of Lieutenant Commander for FY-97 and recommend a backdate to FY-98.



BCNR Liaison, Officer Promotions
And Enlisted Advancements Division

6 June 01

MEMO FOR RECORD

Re: Case of [REDACTED], MSC, USNR, [REDACTED]

On this date PERS-85 [REDACTED] advised that [REDACTED] would have received a date of rank and effective date of 1 Dec 97, had she been promoted pursuant to selection by the FY 98 Active Duty Staff LCDR Sel Bd.

[REDACTED]

HELEEN SWRUSKIN
Head, Performance Section