



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

HD:hd
Docket No: 02778-00
13 April 2001

LCDR [REDACTED] USN

Dear Command [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

You requested in effect, that your record be corrected to show the date of rank and effective date in the grade of lieutenant commander you would have been assigned, had you been selected for promotion to that grade by the Fiscal Year (FY) 00 First Quarter Spot Selection Board, which did not consider you, vice the FY 00 Second Quarter Spot Selection Board.

You alleged that your spot promotion correspondence was mailed for consideration by the FY 00 First Quarter Spot Selection Board, convened on 5 November 1999. You provided statements from an ensign and a chief petty officer to the effect that on 30 September 1999, when your detailer at the Navy Personnel Command (NPC) was visiting Naval Station Bremerton, Washington to make a presentation you were unable to attend, the ensign, as witnessed by the chief petty officer, delivered the correspondence to the detailer and informed him of its content. You further alleged that the detailer later assured you, in a telephone conversation, that the correspondence would be delivered before the selection board. You stated that in February 2000, a lieutenant at NPC notified you that it had not reached the selection board in time. Finally, you alleged that had the detailer not assured you that the correspondence would be delivered to the selection board in time, you would have taken "extra steps" to ensure it was mailed off your ship in time.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 April 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by NPC dated 22 May 2000 and memoranda for the record dated 13 February and 11 April 2001, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. While the Board was satisfied that it would have been legally permissible to grant your request, they found that an item as important as your spot promotion correspondence should have been sent to NPC by certified mail, return receipt requested. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

5420
PERS 85
22 May 00

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: [REDACTED] USN, [REDACTED]

Ref: (a) SECNAVINST 1421.3H

Encl: (1) BCNR File

1. Enclosure (1) is returned, recommending disapproval of [REDACTED]'s request.

2. In accordance with reference (a) retroactive appointments and back pay are not authorized for spot promotions.

[REDACTED]

BCNR Liaison, Officer Promotions and
Enlisted Advancements Division

13 February 2001

MEMO FOR THE RECORD

Subj: [REDACTED] USN [REDACTED]

1. I talked with Commande [REDACTED] U. S. Navy, Officer-In-Charge, SIMA NRMF Ingleside Tx., who indicated to me that he had discuss this situation with his relief and that he just cannot remember having Lieutenant [REDACTED] package. That it would not be like himself to have gotten a spot promotion package and not turn it in when he returned to the Bureau.

2. He further indicated that all of his documentation were in one brief case and that if he had the package, he would have turn it in.

[REDACTED]

11 April 2001

MEMO FOR RECORD

Re: Case [REDACTED], USA, [REDACTED]

On this date PERS-8 [REDACTED] advised that [REDACTED] had been SPOT promoted pursuant to selection by the FY 00 Second Quarter SPOT Selection Board (the first SPOT board to consider him) with a date of rank and effective date of 27 Jun 00, the date of Senate confirmation of the selectees; and that had he been promoted pursuant to selection by the FY 00 First Quarter SPOT Selection Board (convened on 5 Nov 99), he would have received a date of rank and effective date of 29 Feb 00, the date of Senate confirmation of that board's selectees.

Jonathan S. Ruskin
JONATHAN S. RUSKIN
Head, Performance Section