



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

HD:hd
Docket No: 05088-02
15 August 2002

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

Subj: LT [REDACTED], USNR [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 6 May 02 w/attachments
(2) PERS-911 memo dtd 31 Jul 02
(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 date of acceptance on his Naval Reserve Officer Appointment Acceptance and Oath of Office (A&O) as 29 August 2001, vice 30 August 2001. He stated that his break in service caused a one-year deferral of his eligibility to be considered for promotion to lieutenant commander.
2. The Board, consisting of Mses. Humberd and Suiter and Mr. Lippolis, reviewed Petitioner's allegations of error and injustice on 15 August 2002, 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 (2), the Navy Personnel Command (NPC) 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. They state that if his request is approved, they will issue a corrected A&O and a corrected statement of service to reflect no break in service; and they will adjust his pay entry base date (PEBD) accordingly.

c. Because of Petitioner's one-day break in service, he was ineligible for promotion consideration for a period of one year from his entry into the Naval Reserve. The FY 03 Naval Reserve Line Lieutenant Commander Selection Board convened on 13 May 2002, during that one-year period. But for the break in service, he would have been in the promotion zone for consideration by this promotion board. Closing the break in service, as he has requested, would entitle him to consideration by a special selection board, since the correction would make him an officer who missed a promotion board by which he should have been considered in the zone.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2) and the findings at paragraph 3.c above, 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 original appointment as a lieutenant, U. S. Naval Reserve was accepted on 29 August 2001, vice 30 August 2001; and that his PEBD and anniversary date be changed accordingly.

b. That the Chief of Naval Operations grant him consideration by a special selection board for the FY 03 Naval Reserve Line Lieutenant Commander Selection Board.

c. 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.


d. 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
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.


for W. DEAN PFEIFFER
Executive Director



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

5045-07

IN REPLY REFER TO

5420
Pers-911
31 Jul 02

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

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

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO
LT [REDACTED] USNR, [REDACTED]

Encl: (1) BCNR memo 5420 Pers-00ZCB of 10 Jul 02

1. Enclosure (1) is forwarded with the following comments and recommendations concerning [REDACTED]'s request to correct the date of his Oath of Office.
2. Based on the information in [REDACTED] petition, we agree that there was an administrative oversight in the processing of his Oath of Office. The separation orders specifically state that [REDACTED] was required to accept a reserve appointment because he had not completed his military service obligation. We agree with [REDACTED]'s claim that he mistakenly dated the Oath of Office 30 August 2001, vice 29 August 2001.
3. LT [REDACTED]'s Oath of Office is currently on file in his permanent record at Navy Personnel Command. We recommend that the date of acceptance on the Oath of Office be changed from 30 August 2001 to 29 August 2001. If [REDACTED]'s request is approved, we will submit a corrected Oath of Office and a corrected statement of service to reflect no break in service. We will also adjust his Pay Entry Base Date to reflect no break in service.
4. Point of contact in this matter is [REDACTED] at DSN [REDACTED] commercial [REDACTED]

[REDACTED]
Branch Head, Naval Reserve
Officer Status Branch