



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

JSR

Docket No: 7111-09
13 August 2009

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

Subj: ~~REDACTED~~
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 22 Jun 09 w/attachments
(2) HQMC MMOA-4 memo dtd 31 Jul 09
(3) HQMC MMSB e-mail dtd 13 Aug 09
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, that her naval record be corrected by removing her failure of selection for promotion before the Fiscal Year (FY) 2010 Lieutenant Colonel Selection Board, so as to be considered by the selection board next convened to consider officers of her category for promotion to lieutenant colonel as an officer who has not failed of selection for promotion to that grade.

2. The Board, consisting of Messrs. W. Hicks, Spooner and Swarens, reviewed Petitioner's allegations of error and injustice on 13 August 2009, 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 which were available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner's record before the FY 2010 Lieutenant Colonel Selection Board, convened on 3 September 2008, did not include her promotion photograph. She had made two unsuccessful attempts, on 25 July and 21 August 2008, to have her promotion photograph taken. MARADMIN 278/08 dated 30 April 2008, the convening message for the FY 2010 promotion boards, stated that promotion photographs must be received by Headquarters Marine Corps (HQMC) MMSB-20 at least two weeks before the convening date of the promotion board, 20 August 2008 in the case of the FY 2010 Lieutenant Colonel Selection Board. Petitioner successfully had her promotion photograph taken on 29 August 2008, but it did not reach the promotion board.

d. In correspondence at enclosure (2), the HQMC office with cognizance over the subject matter of Petitioner's case has commented to the effect her request should be denied. That office stated that the absence of Petitioner's promotion photograph was the likely cause of her failure of selection; but she did not exercise due diligence, in that she did not get her picture taken until after the two-week deadline established by MARADMIN 278/08.

e. Enclosure (3) confirms that Petitioner's promotion photograph was not available to the FY 2010 Lieutenant Colonel Selection Board.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board finds an injustice warranting the requested relief. The Board agrees with enclosure (2) that the absence of the promotion photograph (as verified by enclosure (3)) harmed Petitioner's chances to be selected for promotion; but contrary to enclosure (2), the Board finds she did exercise due diligence. Accordingly, the Board recommends the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected so that she will be considered by the earliest possible selection board convened to consider officers of her category for promotion to lieutenant colonel as an officer who has not failed of selection for promotion to that grade.

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 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. 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. The foregoing report of the Board is submitted for your review and action.

W. Dean Pfeiffer
W. DEAN PFEIFFER

Reviewed and approved:

Robert T. Cali
8-14-09

Robert T. Cali
Assistant General Counsel
(Manpower and Reserve Affairs)