



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

HD:hd
Docket No. 05321-10
30 July 2010

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

[REDACTED]

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

Encl: (1) DD Form 149 dtd 1 May 10 w/attachments
(2) BUMED ltr dtd 25 May 10
(3) PERS-831 memo undtd

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 the date of rank on his commission as a lieutenant (pay grade O-3), Medical Corps, United States Navy from 20 May 2006 to 20 May 2004; and that he be promoted to lieutenant commander (pay grade O-4) with the date of rank and effective date he would have received, had he been considered and selected by the Fiscal Year (FY) 10 Staff Lieutenant Commander Selection Board as an officer in the promotion zone, rather than an officer below the zone.

2. The Board, consisting of Mses. Countryman and Guill and Mr. Storz, reviewed Petitioner's allegations of error and injustice on 29 July 2010, 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 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. Except as indicated in paragraph 3.b below, before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In enclosures (2) and (3), the Bureau of Medicine and Surgery and Navy Personnel Command offices with cognizance over the subject matter of Petitioner's case commented to the effect his lieutenant date of rank should be changed as he requests. Enclosure (3) stated that he was considered and not selected by the FY 10 Staff Lieutenant Commander Selection Board as an officer below the promotion zone; that he was considered by the FY 11 promotion board as an officer in the zone; and that if he is promoted pursuant to selection by that promotion board, he may submit a new application for backdating to FY 10.

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 error and injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected, where appropriate, by changing the date of rank on his commission as a lieutenant, Medical Corps, U. S. Navy from 20 May 2006 to 20 May 2004; and that his lineal precedence be adjusted accordingly.

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 or material 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. 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